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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1920.

No. 239.

UNITED MINE WORKERS OF AMERICA, ET AL.,
PLAINTIFFS IN ERROR,
vs.
CORONADO COAL COMPANY, ET AL., DEFENDANTS
IN ERROR.

IN ERROR TO THE UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE EIGHTH CIRCUIT.

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S. P. McLaughlin	1747	1166

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Bob Biy	1755	1171
W. P. Upton	1761	1176
William Willett	1767	1180
Mrs. W. H. Argo	1769	1182
William H. Argo	1771	1183
J. W. Sylsberry	1789	1196
Roland F. Barnes, Deposition of	1797	1202
John T. Allison	1872	1253
Ewing Thomas, Deposition of	1882	1261
English Dougherty	1909	1280
Andrew Dougherty	1938	1301
Plaintiffs' Exhibit 42, Slip of Paper bearing Address,—C. E. Pattie, Box 376, Hartford, Arkansas	1951	1310
Plaintiffs' Exhibit 43, Slip of Paper bearing Addresses,—H. M. Strope, Frank Sharp, Box 672, Hartford, Arkansas	1951	1310
Dr. Oscar M. Neill	1955	1312
Mrs. Mahala Barnes	1961	1316
C. H. Langdorf	1963	1317
William Thomas, Deposition of	1984	1332
J. R. Bailey	2013	1352
Arch Caldwell	2033	1365
Ellet T. Goddard	2044	1372
James A. Murray	2045	1373
George A. Davis	2050	1376
J. Curtis Bohannan	2058	1381
William T. White	2061	1383
William Saunders, Deposition of	2073	1392
W. T. Forrester	2088	1402
Mrs. John Degen	2093	1405
James H. Meeks	2104	1413
Elmer Bohannan	2115	1421
John W. Baker	2118	1423
Charley Cheek, Deposition of	2121	1425
William V. Womack	2156	1449
William J. Goatcher	2164	1455
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Charles Suttles, Deposition of	2174	1463
Mrs. Rhelda Perry, Deposition of	2195	1476
A. W. McGee, Deposition of	2220	1493
Lee Bishop	2224	1495
James O. Johnson, Deposition of	2228	1498
Mrs. Preddro Brown	2250	1514
Harry Dunlap	2256	1518
Levi Brown	2270	1527
J. L. Briggs	2283	1536
Ewell Doughit	2286	1538
Mike Doughit	2293	1542
Fred Francis	2298	1545
David Stanley	2306	1551
Melvin Roberts	2311	1554
S. T. Moore	2314	1556
Joseph A. Parrish, Deposition of	2323	1562
Ed Parrish, Stipulation as to	2335	1571
Mrs. Eva Trannell, Stipulation as to	2336	1571

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N. G. Tyler, Deposition of	2346	1578
Hannibal Green	2355	1584
Joseph A. McConnell	2361	1588
Mike Doughit, Re-called	2368	1593
Charles L. Reierson, Deposition of	2369	1594
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7, Letter, Remington Arms-Union Metallic Cartridge Co., to H. B. Hill, June 19, 1914	2388	1607
10, Telegram, H. B. Hill to Remington Arms-Union Metallic Cartridge Co., June 18, 1914	2393	1611
11, Telegram, Remington Arms-Union Metallic Cartridge Co., to H. B. Hill, June 18, 1914	2394	1612
1, Telegram, Remington Arms-Union Metallic Cartridge Co., to H. B. Hill, June 10, 1914	2395	1613
2, Telegram, Remington Arms-Union Metallic Cartridge Co., to H. B. Hill, June 10, 1914	2395	1613
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4, Letter, Remington Arms-Union Metallic Cartridge Co. to H. B. Hill, June 10, 1914	2396	1613
5, Order to the Remington Arms-Union Metallic Cartridge Co., from H. B. Hill, June 10, 1914	2397	1614
8, Order to the Remington Arms-Union Metallic Cartridge Co., from H. B. Hill, June 17, 1914	2398	1615
9, Order to the Remington Arms-Union Metallic Cartridge Co., from H. B. Hill, June 17, 1914	2398	1615
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Lee Rogers	2435	1641
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Mrs. Fannie Briggs	2440	1645
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Garland C. Choate	2443	1647
Harry B. Hill, Deposition of	2448	1651
Sam Thomas	2463	1659
Leo S. Schell, Deposition of	2476	1668
John Laws	2502	1686
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Invoice Atkinson-Williams Hardware Company, to John Mastell, $230.00, June 13, 1914	2505	1688
Invoice Atkinson-Williams Hardware Company, to John Mastell, $362.94, June 22, 1914	2507	1690
Henry Edward Morgan	2509	1690
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Bascom Allen	2518	1697
S. T. Brown	2522	1699
E. Lee Harmon	2525	1701
S. T. Brown, recalled	253	1707

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William D. Tharel	2536	1708
Bud Porter	2541	1711
S. P. Epperson	2544	1715
William F. Meeks, Deposition of	2549	1718
J. E. Boring	2582	1740
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Plaintiff's Exhibit 58, Check-off list turned in by the Secretary of Local Union, 1526 and 1530 of the United Mine Workers of America, Recital of	2583	1741
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W. R. Eustice	2593	1748
I. L. Cole	2596	1750
J. F. Rauser	2600	1753
Charles Baskins	2604	1755
W. J. Smith	2608	1758
Mrs. Sabitha Smith	2610	1759
Miss Millie Smith	2612	1761
J. B. Atkisson	2615	1762
Hugh R. Rankin	2619	1765
Paul C. Hamilton	2622	1767
Charles Dalton	2630	1772
Pleasant P. Baker	2634	1775
John S. Shaleen	2640	1779
Clarence A. Shaleen	2648	1785
Frank M. Morgan	2652	1787
E. F. Hackett, Deposition of	2654	1789
D. A. Steele	2675	1804
J. J. Johnson	2679	1806
F. A. Youmans	2690	1814
Roger B. Hull	2694	1817
F. A. Youmans, recalled	2696	1818
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A. M. Chitwood	2701	1821
Will Bohannan	2706	1824
E. G. Castell	2709	1826
D. VanHecke	2713	1829
James R. Cole	2714	1829
Sid Johnson	2716	1831
J. N. Hamilton	2718	1832
Dr. E. B. Jones	2720	1833
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Plaintiffs' Exhibit 60, Check of United Mine Workers of America, District 21, to Hayden Sporting Goods Co., $411.99, June 30, 1914	2725	1836
J. K. Thrasher, Deposition of	2729	1839
M. W. Weston, Deposition of	2739	1845
M. W. Weston, Deposition of, recalled	2751	1854
St. Cloud Cooper	2753	1855
John Weston, Deposition of	2755	1856
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Mack Weston, Deposition of	2772	1867
W. B. Kissinger, Deposition of	2782	1874
H. H. York, Deposition of	2791	1880
Hilbert Stroupe	2803	1888
W. C. Harp, Deposition of	2815	1897
George Simmons, Deposition of	2822	1902
Howard H. Redner	2837	1912
Rufus H. Lamb	2840	1914
Howard H. Redner, recalled	2845	1918
M. B. Willsley	2847	1919
M. O. Willsley	2858	1926
Plaintiffs' Exhibit 99, Stub of Check to Hayden Sporting Goods Co., $411.19, June 30, 1914	2861	1928
Amos S. Johnson	2862	1928
John E. Finney	2865	1931
Frank Pigg	2867	1932
Heber Denman	2871	1935
Edward J. M. Peake	3022	2039
W. E. Beaty	3026	2042
H. C. Rice	3030	2044
E. W. Hogan	3033	2046
J. P. King	3037	2049
William A. Evans	3043	2053
J. G. Peterbaugh	3044	2054
B. G. Moore	3056	2062
Heber Denman, recalled	3058	2063
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Inventory of Property owned by the Cherokee Construction Co	3074	2075
103 Contract between Cherokee Construction Co. and Mammoth Vein Coal Co., June 26, 1909	3090	2090
104, Contract of Lease between Mrs. Belle McEachin, et al., and Missouri Coal Company, May 1, 1907	3091	2091
120, Contract of Lease between Mammoth Vein Coal Co. and Prairie Creek Coal Mining Co., March 27, 1911	3101	2099
121, Contract of Lease between the Kali-Inla Coal Co. and the Mammoth Vein Coal Co., January 1, 1912	3103	2100
123, Contract of Lease between the Kali-Inla Coal Co., and the Mammoth Vein Coal Co., November 30, 1910	3105	2102
122, Assignment of Contract of March 27, 1911, between Mammoth Vein Coal Co. and Prairie Creek Coal Co. to Kali-Inla Coal Co	3107	2103
124, Contract of Lease between Denman Coal Co. and Mammoth Vein Coal Co., October 5, 1910	3108	2104
108, Contract of Lease between T. W. M. Boone and Wife and the Prairie Creek Coal Co., January 13, 1903	3110	2105
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Authority of Sebastian County Coal Co. for the Assignment of Lease between Coronado Coal Co. and Sebastian County Coal Co. to Arkoal Co., October 5, 1909.	3116	2110

	Original.	Print.
Authority and Agreement of Franklin Bache to the Deed of the Coronado Coal Co. to the Arkoal Company, October 5, 1909	3117	2110
Acceptance and Agreement by the Sebastian Coal Co. to the Assignment of Lease from Sebastian Coal Co. to Franklin Bache, October 5, 1909	3117	2111
Assignment of Contract of Lease between Sebastian County Coal Co. and Franklin Bache to Coronado Coal Co., January 1, 1907	3117	2111
112, Contract of Lease between Sebastian County Coal Co. and Franklin Bache, January 1, 1907	3120	2112
109, Assignment of Contract of Lease between T. W. M. Boone and Wife, and the Prairie Creek Coal Co. to Sebastian County Coal Co., November 22, 1904	3134	2121
113, Contract of Lease between Arkansas Coal and Mining Co. and the Coronado Coal Co., December 23, 1913	3137	2124
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P. L. Harrison	3728	2533
Joe White	3738	2540
Thomas McDonald	3743	2543
M. M. McWilliams	3755	2552
Ed. W. Hogan	3757	2553
D. C. McAlpine	3760	2556
W. E. Beatty	3763	2557
J. C. Reed	3765	2558
J. D. Finney	3768	2561
P. R. Allen	3770	2562
J. G. Puterbaugh	3772	2563
James P. Hoye	3775	2565
R. A. Young	3777	2566
W. J. Hamilton	3779	2568
W. S. Sampson	3782	2570
Dan Wilcox	3784	2571
Nick Berkell	3787	2573
Ella Howard	3794	2578

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Theresa Del Rosa	3799	2582
Elberta Johnson	3802	2584
H. H. Martin	3813	2591
Jessie Thompson	3814	2592
Mrs. Sam Dorman	3821	2599
Mary Mastell	3833	2607
Mary Manick	3837	2610
Charles Howard	3844	2615
Pete Stewart	3847	2616
L. Schmidt	3851	2619
Charles Clayborn	3866	2629
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Ed. Ables	3919	2666
Dr. V. V. Butler	3927	2671
W. L. A. Johnson	3931	2673
F. W. Lukens	3934	2675
John Bumpas	3945	2682
Sarah Hobbs	3958	2691
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Charles J. Hart	3969	2698
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Thomas M. King	4040	2747
Gus G. Sparling	4044	2750
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Will Miller	4057	2759
Bob Anderson	4066	2765
Harry N. Taylor	4070	2768
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John T. W. Davis	4118	2801
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Ed. Baker	4127	2807
George Fuller	4130	2808
Mrs. Charles Gooden	4132	2810
Cale R. Jones	4135	2811
Fred Evans	4137	2812

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Dr. H. C. King	4146	2818
Marion Hulsey	4152	2822
James Doyle	4157	2826
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36, Certified Copy of Articles of Agreement and Incorporation of the Sebastian County Coal Company, State of Arkansas, November 21, 1905	4226	2876
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Mrs. Leon Green	4398	3010
Kert Thompson	4403	3013
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1280 Monday, October 28, 1917. 2:00 o'clock P. M.

Pursuant to adjournment, Court reconvened at 2:00 o'clock P. M., the parties appearing as before, the following proceedings were had:

FRANKLIN BACHE, resumed the stand.

Cross-Examination (Cont'd.)

By Mr. Covington:

Q. Referring to the clause in the 1903 contract read by you just before noon, I will ask you if that does not include all the non-union conditions in existence then, except to the advance of 12-½ per cent? If that is not the only change in the non-union conditions and the Union conditions.

A. I don't think that any non-union conditions existed in the field at that time, all the mines were union, as far as I know.

Mr. Covington: Your Honor, I am not certain whether I offered this or not before the noon hour.

The Court: I am not certain either.

Mr. Covington: I desire now to offer it.

The Stenographer: It has already been identified as Exhibit 7.

Q. Then, passing from the contract of 1903 to 1904, was there any contract entered into between the operators Association of the southwest and the miners organization?

A. In 1904?

Q. Yes. A. Yes.

Q. Where? A. Pittsburg, Kansas, I think.

Q. Were you representing any of the plaintiff companies here at that time?

A. I was probably representing the Denman Company at that time.

1281 Q. You were in that company once, were you?

A. I think I was, Mr. Covington, I am confident of it.

Q. Who was chairman of the conference?

A. I don't recall.

Q. Were you one of the scale committee? A. I think so.

Q. Was there anything in the contract in 1904 that was not in the contract of 1903, with reference to the condition of work, and the hours of employment and prices to be paid for labor?

A. I don't know whether there was any advance made in 1904 or not. The contracts from year to year were very much alike.

Mr. Covington: I would like to have this paper marked or identified as Exhibit 8.

Q. I hand you Exhibit 8, and I ask you what it is.

A. You want me to read it?

Q. No, I just ask you what it is.

A. District 21 Agreement operators and miners, Pittsburg, Kansas, August 10, 1904, from April 1st 1904 to March 31, 1906; Southwest Interstate Coal Operators Association and United Mine Workers of America for Missouri, Kansas, Arkansas, Indian Territory and Texas.

Q. Was that the contract that you made at Pittsburg in August, 1904? A. Yes, sir.

Q. Who signed on behalf of the operators association?

A. I will look and see. B. F. Bush, President, S. W. Kniffin, Secretary.

Q. Who signed on behalf of the miners?

A. Pete Hanraty, Frank J. McGuire, John Lepps, John Morgan and B. F. Clevenger.

Mr. Covington: I want to offer Exhibit 8 in evidence.

(Exhibit 8 so offered in evidence is in words and figures following, to-wit:)

1282 "Joint Inter-State
Agreement
of
Operators And Miners.

It is hereby agreed between the representatives of the Southwestern Interstate Coal Operators Association and the representatives of Districts 14, 21 and 25 of the United Mine Workers of America, that the existing interstate, District and Texas agreements be continued without any change or addition whatever except as follows:

Day wage, yardage, dead and deficient work, to be reduced throughout 5.55 per cent, except the day wage scales in Texas mines, which shall be reduced one-half the above amount.

Interstate and District scales to be signed simultaneously at Pittsburg, and to expire March 31, 1906.

Inside Day [Wayge] Scale.

Track Layers' helpers	2.23
Trappers	1.07

Bottom cagers 2.42
Track layers 2.42
Drivers 2.42
Trip riders 2.42
Pushers 2.42
Water haulers and machine haulers.....2.42
Timbermen where such are employed.....2.42
Pipe men for compressed air plants.....2.36
All other inside day labor.....2.23
Spragging, coupling and greasing when done by boys 1.65
Shaft sinkers 2.64
1283 Shot firers under normal conditions 2.83

Outside Day Wage Scale.

First Blacksmith 2.83
Second Blacksmith 2.60
Blacksmiths' helpers 2.23
Carpenters 2.30

(Provided that in no case will there be any reduction from the rate of wages now paid to carpenters of more than 5.55 per cent.)

All other outside day labor not enumerated 1.91.

Provided, that any class of outside day labor now receiving $2.02-½ or more per day shall be reduced 5.55 per cent. This provision only applies to outside day labor not otherwise enumerated.

Scale For Engineers.

Engineers, first class, 500 tons and over, per month 74.62
Second class, 300 tons to 500 tons, per month 68.95
Third Class, 300 tons or less, per month...61.40

Tail rope and slope enginers shall be reduced 5.55 per cent below present wages.

The minimum rate for tail rope and slope engineers shall be $2.25 per day, or $58.56 per month; provided, further, that the maximum rate for tail rope and slope engineers shall be $2.55 per day or $66.12 per month. Twenty-six days to constitute a [day's] work. All over-time in excess of nine hours to be paid for at a proportionate rate per hour.

The tonnage shall be determined by the average for the month of November, 1902, and based upon mine run coal; but

in no case shall any reduction from the present wages be made.

1284 This scale of wages applies only to mines in operation at least one year, and in all new mines the wages of the engineers shall be advanced with the increased tonnage until the maximum rate is reached; provided, that in no case shall engineers employed at new mines receive less than $2.25 per day; also that in no case shall engineers, firemen or pumpers be interferred with or asked to cease work by any local committee or local union official during the life of this contract.

The mining prices inside and outside day wage scale (except engineers) provided for in this contract is based upon an eight hour work day.

Rules And Regulations.

Eight hour day.

All classes of day labor are to work full eight hours, and the going to and coming from the respective working places it to be done on the day hand's own time. All company men shall perform whatever day labor the foreman may direct. An eight hour day means eight hours' work in the mines at the usual working places, exclusive of noon time—which shall be one half hour—for all classes of inside day labor. This shall be exclusive of the time required in reaching such working places in the morning and departing from the same at night.

Drivers shall take their mules to and from the stables, and the time required in so doing shall not include any part of the day's labor; their time beginning when they reach the change at which they receive empty cars—that is, the parting drivers at the shaft bottom and the inside drivers at the parting and [engind] at the same places; but in no case shall a driver's time be docked while he is waiting
1285 for such cars at the points named. The inside drivers at their option, may either walk to and from their parting or take with them, without compensation, either loaded or empty cars to enable them to ride. This provision, however, shall not prevent the inside drivers from bringing to and taking from the bottom regular trips, if so directed by the operators, provided such work is done within the eight hours.

When the stables are located outside the mine the companies agree to deliver the mules at the bottom of the shaft in the

morning and relieve the drivers of the mules at the bottom of the shaft at night.

When the men go into the mines in the morning they shall be entitled to two hours' pay whether or not the mine works full two hours; but after the first two hours the men shall be paid for every hour thereafter, by the hour, for each hour's work or fractional part thereof. If for any reason, the regular work can not be furnished the inside day laborers for a portion of the first two hours, the operators shall furnish other than the regular labor for the unexpired time.

Penalties for Loading Impurities.

In order to insure the production of clean, marketable coal, it is herein provided that if any miner shall load with his coal, sulphur, bone, slate, blackjack or other impurities, he shall for the first offense, be notified by the mine foreman; for the second offense he may be suspended for one day; for the third and each subsequent offense occuring in any one month he may be suspended for three days; provided, that if in any case, it is shown that a miner maliciously or knowingly loads impurities, he shall be subject to discharge. It is further agreed
1286 that if any miner has been suspended and claims that an injustice has been done him, the matter shall be taken up for investigation and adjustment in the manner provided in Section Three of this Agreement.

Duties of Pit Committee.

(a) The duties of the pit committee shall be confined to the adjustment of disputes between the pit boss and any member of the U. M. W. of A. working in and around the mines, arising out of this agreement or any District or Sub-District agreement made in connection therewith, when the pit boss and said miner or mine laborer have failed to agree.

(b) In case of any local trouble arising in any mine through such failure to agree between the pit boss and any miner or mine laborer, the pit committee and the pit boss are empowered to adjust it, and in the case of their disagreement it shall be referred to the superintendent of the company and the district president of the U. M. W. of A., or such person as he may designate to represent him; and should they fail to agree it shall be referred to the commissioner of the Southwestern Interstate Coal Operators' Association and the district president of the U. M. W. of A. for adjustment; and in all cases the mines, miners, mine laborers and parties involved must continue at work pending an investigation and adjust-

ment, until the final decision is reached in the manner above set forth.

(c) If any day men refuse to continue at work because of a grievance which has or has not been taken up for adjustment in the manner provided herein, and such action shall seem likely to impede the operation of the mine, the pit committee shall immediately furnish a man or men to take such vacant place or places at the scale rate, in order that the mine
1287 may continue at work; and it shall be the duty of any member or members of the United Mine Workers who may be called upon by the pit boss or pit committee to immediately take the place or places assigned to him or them in pursuance hereof.

(d) The pit committee, in the discharge of its duties, shall under no circumstances go around the mine for any cause whatever, unless called upon by the pit boss or by a miner or company man who may have a grievance that he cannot settle with the boss. Any pit committeeman who shall attempt to execute any local rule or proceeding in conflict with any provision of this contract, or any other made in pursuance hereof, shall be forthwith deposed as committeeman. The foregoing shall not be construed to prohibit the pit committee from looking after the matter of membership dues and initiations in any proper manner.

(e) Members of the pit committee employed as day men shall not leave their places of duty during working hours except by permission of the operator, or in cases involving the stoppage of the mine.

(f) The right to hire and discharge, the management of the mine and the direction of the working force are vested exclusively in the operator, and the U. M. W. of A. shall not abridge this right. It is not the intention of this provision to encourage the discharge of employes or the refusal of employment to applicants because of personal prejudice or activity in matters affecting the U. M. W. of A. If any employ shall be discharged or suspended by the company and it is claimed that an injustice has been done him, an investigation to be conducted by the parties and in the manner set forth in paragraphs "a" and "b" of this section shall be taken
1288 up promptly and if it is proven that an injustice has been done, the operator shall re-instate said employe and pay him full compensation for the time he has been suspended and out of employment; provided, if no decision shall be rendered within five days the case shall be considered closed, in so far as compensation is concerned, unless said fail-

ure to arrive at a decision within five days is [owning] to delay upon the part of the operator, in which case a maximum of ten days' compensation shall be paid.

Local Demands.

There shall be no demands made locally by either operators or miners which are in conflict with this agreement, or any District or Sub-District agreement made prior to September 1, 1904; and there shall be no provision imposed violating the same. Any local member, official or committee shutting down a mine without orders from the District President or District Executive Board shall be fined in the manner provided for in the national constitution of the U. M. W. of A., and such additional [enalties] may be imposed as are now or may be provided for in the constitutions of the various district organizations. All such fines are to be collected by the companies and paid into the district treasury of the U. M. W. of A. Should any operator violate this agreement, or any provision hereof, such operator or company shall be fined one hundred dollars ($100.), said fine to be paid into the treasury of the Southwestern Interstate Coal Operators' Association.

Payment of Wages.

The operators agree to pay twice a month, the dates of payment to be determined by the District joint conventions; and these payments are to be made at the office nearest to
1289 the mine wherein or at which the employees are employed; provided, however, that this office shall be located not more than two miles from such mine.

Check-Off.

The operators will recognize the Pit Committee in the discharge of their duties, as provided in this agreement, and agree to check off dues, assessments, fines and initiations from all miners and mine laborers when desired. In order to protect the companies the U. M. W. of A. agrees, when the companies so demand, to furnish a collective and continuous order authorizing the companies to make such deductions. The companies agree to furnish the miners' local representatives a monthly statement showing separately the amount of dues, assessments, fines and initiations collected. In case any fine is imposed the propriety of which is questioned, the amount of [wuch] fine shall be withheld by the operator until the case has been taken up for adjustment and a decision reached.

It is agreed that the miners may employ a Check-Weighman to see that coal is properly weighed and a correct record made

thereof, and when such Check-Weighman is employed the companies shall furnish him a check number, and he shall credit to his number such portion of each miner's coal as he may be authorized to do by the local union. It is understood that the above provision shall not affect the arrangements now existing at any mine where a check number is issued in the name of the local union, and dues, assessments, fines and initiations collected by this method.

Measurements.

It is agreed that measurements of entries, brushing room turning and deadwork shall be made semi-monthly and payment in full shall be made for such work in the same manner as that in which other work is paid for.

Equal Turn.

The operator shall see that an equal turn is offered each miner and that he be given a fair chance to obtain the same. The Check-Weighman shall keep a turn bulletin for the turn-keeper's guidance. The drivers shall be subject to whomever the mine manager shall designate as turn-keeper in pursuance hereof.

Deaths and Funerals.

In the event of an instantaneous death by accident in the mine, the miners and underground employees shall have the privilege of discontinuing work for the remainder of that day; but work at the option of the operator, shall be resumed the day following and continue thereafter. In case the operator elects to operate the mine on the day of the funeral of the deceased, as above, or where death has resulted from an accident in the mine, individual miners and underground employes may, at their option, absent themselves from work for the purpose of attending such funeral, but not otherwise. And whether attending such funeral or not, each member of the U. M. W. of A. employed at the mine at which the deceased member was employed, shall contribute fifty (50) cents and the operator twenty-five ($25) dollars for the benefit of the family of the deceased or his legal representatives, to be collected through the office of the company. In the event that the mines are thrown idle on account of the miners' or other employes' failure to report for work in the time intervening between the time of the accident and the funeral, or on the day of the funeral, then the company shall not be called upon for the payment of the twenty-five ($25) dollars above referred to.

Except in cases of fatal accidents, as above, the mine shall in no case be thrown idle because of any death or funeral; but in the case of the death of any employe of the company or member of his family, any individual miner may, at his option, absent himself from work for the purpose of attending such funeral, but not otherwise.

Doctor.

No deduction shall be made for doctors unless such deduction is authorized by the individual employe.

Condition of the Mine.

The company shall keep the mine in as dry condition as practicable, by keeping the water off the road and out of the working places. When a miner has to leave his working place on account of water, through the neglect of the company, they shall employ said miner doing company work when practicable, and provided that said miner is competent to do such work, or he shall be given another working place until such water is taken out of the place.

Provisions for Injured.

The operators shall keep sufficient blankets, oil, bandages, etc., and provide suitable ambulance or conveyance, readily available at each mine to properly convey injured persons to their homes after an accident.

Powder.

The price of powder shall be $2.00 per keg during the term of this contract.

1906 Joint Convention.

It is agreed that the Southwestern Interstate Coal Operators Association and the representatives of the United Mine
1292 Workers of America shall meet in the city of Indianapolis, Indiana, on the 25th day of January, 1906, at 10 o'clock a. m.

Appendix.

Harnessing Mules.

In regard to taking the mules into the mine where the mules are kept on top of slope opening, the mules are to be taken to and from the tipple to the mouth of the slope. In shaft openings the [mueles] are to be taken down and up the shaft by the company, either by the drivers on the company's time, of by the company employing a man to do so; and it may employ any man, or number of men, it chooses, to do this work.

Where mules are kept in the mine, if the mules are harnessed by the company, the driver must be at the pit bottom, or the parting where he commences work, ready to begin at starting time. If the driver harnesses the mules, he does so on the company's time.

Penalties for Loading Impurities.

The interpretation of, or the construction to be placed upon, that paragraph relative to penalties for loading impurities in the agreement between the U. M. W. of A., and the Southwestern Interstate Coal Operators' Association, entered into at Pittsburg, Kansas, July 27th, 1903, having been referred to the undersigned, is ruled upon as follows. The paragraph reads:

"In order to insure the production of clean, marketable coal, it is hereby provided that if any miner shall load with his coal, sulphur, bone slate blackjack or other impurities, he shall, for the first offense, be notified by the mine foreman; for the second offense he may be suspended for one day; for the third and each subsequent offense occurring in any one month he may be suspended for three days; provided, that if in
1293 any case it is shown that a miner maliciously or knowingly loads impurities, he shall be subject to discharge."

The question is upon what constitutes "one month" within the meaning and the intent of this contract.

It was clearly intended by the parties to this contract that if it became necessary to insure the production of clean coal, the penalties provided in this agreement should be and could be inflicted. It is also clear that if the operation of this agreement is to be limited and confined to each calendar month for the period it is in effect, the penalties can not be inflicted as contemplated by the parties to the agreement, and the offender must be allowed to go unpunished.

For example, suppose a miner is notified on the first, or any subsequent day of the calendar month that he has loaded dirty coal—that is the extent of his punishment for that offense; and, suppose, he is notified on the first, or any subsequent day of the calendar month following, that he has loaded dirty coal, that is the limit of his punishment for the second offense, notwithstanding the second offense may have been committed on consecutive days, that is to say, on the last day of one calendar month and the first day of the calendar month following.

Again, the first offense may be committed on any day subsequent to the first day of the month; the second offense on

any day subsequent to the first offense, and the third offense on the first day of the succeeding month, or any subsequent day, and the offender go practically unscathed, because no penalty [othe] than that provided for the second offense could be inflicted. Again, if the second offense occurred on the last day of any calendar month on
1294 which the first offense occurred, the offense is condoned, because of the application, as lawyers would say, of the "Statute of Limitations" interfering to save the offender from the infliction of the punishment provided as just and necessary to the consummation of the intent and purpose of the contract—the "insurance of the production of clean, marketable coal'.'

Now, in my judgment, that could not have been the intent and purpose of the parties to this agreement, because they clearly intended that the penalty should be inflicted if the offenses were committed within the specified time, "one month", i. e., thirty days. Nor would this impose any hardships on the miner, or give the operator any undue advantage.

The ruling is, therefore, that "one month" in this agreement, means thirty days.

If either of the district presidents disagree with this ruling, they will please submit their reasons therefor in writing.

BENNETT BROWN,
Commissioner.

Copies sent to and endorsed by—George Colville, District President No. 25.

George Richardson, District President No. 14.

Pete Hanraty District President No. 21.

Thomas M. King, Vice President District No. 21.

Pittsburg, Kansas, August 19, 1904.

A difference of opinion having arisen in regard to whether or not the brushing question in the northern part of Kansas is to be taken up and adjusted by the President of District 14 and the Operators' Commissioner, the representatives of the Miners and the representatives of
1295 the Operators agree to refer the matter to T. L. Lewis, National Vice President of the U. M. W. of A., and W. C. Perry, Vice President at Large for the South-Western Interstate Coal Operators' Association for settlement.

Executed at Pittsburg, Kansas, this 19th day of August, 1904.

In behalf of the Southwestern Interstate Coal Operators' Association.

B. F. BUSH, President.
S. W. KNIFFIN, Secretary.

In behalf of the Miners:

J. G. RICHARDSON,
President District 14.
PETE HANRATY,
President District 21.
GEO. COLVILLE,
President District 25.
ROBERT GILMOUR,
Secretary Joint Convention.
T. L. LEWIS,
National Vice President.

District Agreement

Adopted August 19, 1904.

Southwestern Inter-State Coal Operators Association.

and

The United Mine Workers of America.

District Number 21.

1296 District Agreement.

Scale of District No. 1.

Prices for Mining in Indian Territory.

Coalgate, Edwardsville, Brewerville, Baker, Krebs No. 11, No. 5 and No. 7 Buck No. 6, Hartshorne, Haileyville, Gowen, Wilburton, Lutie, Turkey Creek and Witteville, per ton for mine run coal,	$ 72
Alderson, Krebs No. 8, Carbon, Bache, Dow, Craig, per ton for mine run coal	77-½
Lehigh, for screened coal	90
Bolen-Darnall, McAlester mines, per ton hand-picked, coal,	1.00

Samples, McAlester, mines, per ton hand-pocked coal, 1.00

The mining price at Midway shall be eighty cents per ton mine run coal. Coal mined in entries and air courses, the price shall be seventy-four cents per ton mine run. The price per ton at Midway shall cover all bottom taken up and the removal of top bony.

All yardage, entry and dead work at Midway, also the inside and outside day wage scale, to be reduced 5.55 per cent.

Sutter and Witteville No. 4.

The mining price at Sutter, Indian Territory, and Mine No. 4, Witteville, shall be ninety-five cents per ton for coal screened over the standard diamond top screen of following dimensions: Width, six feet; length, twelve feet; space between bars to be 1⅛ inch.

All entry, yardage and dead work to be reduced 5.55 per cent under existing prices.

All refuse matter thrown into gob shall not be loaded
1297 unless same shall be paid for. Rate of payment on such work to be agreed on by the company's representative and the pit committee. All coal shall be loaded the same as run mine coal in the Pittsburg Agreement, namely, every precaution shall be used to prevent the loading of dirt. The rule adopted by the Pittsburg Conference for the loading of impurities shall not apply to Sutter and Witteville No. 4 to impurities passed through the screen but to impurities passed over the screen, except where a miner does not use due caution or maliciously loads impurities.

The price of mining low vein coal at Turkey Creek shall be $1.00 per ton mine run. The conditions relating to mining coal at present to remain unchanged.

Prices on yardage and dead work shall be reduced 5.55 per cent. Room cross cuts will be paid the same as air courses where they are cut.

For taking up bottom at the Coalgate Company's mine, the following prices shall be paid: Where prevailing height is required, seven cents per inch for each inch when coal is less than four feet in thickness. This does not include all bottom, but only that representing the difference between the actual thickness of the coal and four feet.

The price for yardage and dead work at No. 7 Krebs, shall be as follows:

Where coal is three feet eight inches and under, same rates will be paid as No. 8 Krebs. Where coal is over three feet eight inches, same price will be paid as at No. 11 Krebs.

Scale of prices on cross-bars, dirt and deficient narrow work in room necks at the mines on Atoka track, excepting Midway.

1298 Setting cross-bars, 31 cents, eight-foot bar. Loading dirt in cars, 26 cents per car. Air course yardage in rooms turned off the entry where top will not allow widening out. Where bottom is required to be taken up, entry prices shall be paid. One-half room turning price to be paid for widening out. Measurements to begin at entry and end at point of widening out.

Prices on clod at Bolen-Darnell and Samples' mines:

From September 1st to October 1st the price shall be five cents per inch for all clod coming over the coal.

During the month of October the superintendent and pit committee shall take the average thickness of the clod. The price to be paid per inch shall be based on the average at 9 cents per inch for clod over four inches in thickness.

The superintendent and mine committee shall, on the 1st of October, determine what day in the month averages shall be taken.

The decision of superintendent and mine committee shall be final and binding for the term of this contract. This applies to clod coming from top of coal only.

All break-throughs in the Indian Territory shall be driven from six to eight feet wide, and paid for at the rate of $1.70 per yard. Measurement to be made from lower rib.

Scale of prices governing yardage at mines of the Great Western Coal and Coke Company, at Wilburton, I. T.

For loading dirt and rock where same can not be gobbed, 28 cents per car.

For entry work where brushing is not required, $2.13 per yard.

Where brushing is required it shall be paid for at the rate of 47 cents for eight (8) inches or 6 cents per inch.

1299 Air courses shall be paid for at the rate of $1.70 per yard.

Bottom brushing shall be paid for at the rate of 53 cents per yard, where it is taken up, for turning rooms.

The price of setting cross-bars shall be 26 cents per bar, under same conditions which have existed during the past year.

The price of soda powder at Krebs shall be $2.00 per keg.

All coal in the Indian Territory under two feet ten inches on the 77-1/2 cents rate be declared deficient.

At Witteville the price for entry shall be $2.55 per yard, brushing included; for air course, $1.70 per yard.

All coal under four feet in height in the Indian Territory where bottom brushing has not been paid for in rooms, it shall be paid for at 2-1/4 cents per inch per yard to make the required height; and in Arkansas the same price and prevailing conditions shall apply to digging bottom in rooms. This shall not apply to mines of Dallas Coal Company nor the Central and Coke Coal Company mines at Hartford. This question at Central Coal and Coke Company mines at Hartford is left to the commissioner of the Operators' association and the President of District No. 21, they select a third party if they can not agree.

The price for turning rooms in scale district 1 is $5.31.

Machine Scale for Indian Territory.

Loaders for chain machines are to receive 45 cents per ton in all classes of working places.

Runners are to receive 5 cents per ton.

Helpers are to reecive 41/2 cents per ton.

Loaders are to do all work now done by pick miners except cutting of coal; this includes taking up of the same amount of bottom under same conditions as applies to pick miners and furnish their own powder.

1300

Day wage scale for loading after chain machines shall be $2.42. No loader will be employed on the day wage scale where it is practicable to employ them on tonnage rate.

Day Wage Scale.

The fire boss shall receive $2.87 per day and shall be subject to discharge by the management of the mine without appeal; if competent, shall be given other work.

The fire runner shall receive not less than $2.42 where such is employed.

Auxiliary electric hoist operators:

	Per day.
For boys,	$1.89
Electric slope engineers,	2.42
Motormen	2.42
Pump men	2.42
Head machinist	2.93
Machinist	2.60

"Boys" means those of maximum age of 19 years.

Day wages for [digginc] coal,	2.66
Machine runners	2.83
Machine helpers	2.60
Shaft sinkers,	2.87

When any employe shall be requested to fill the place of another employe, as specified herein, he shall receive the wage of the employe whose place he takes, plus 26 cents; provided, further, that it is not compulsory on any man who may not wish to take such place.

1301 The scale for Henryetta is referred to the District President and Operators' Commissioner for adjustment.

Scale of District No. 2.

The price for mine run coal per ton shall be, $	62
For screened coal per ton,	90

The operators are to have the option of paying on a screened coal or mine run basis. When the coal is mined on a screened coal basis the screens used shall be not more than six feet wide have bars not more than sixteen feet long and a 1-½ inch space between the bars.

Ouita.

For hand-picked coal, free from slack, slate, sulphur, bony and blackjack, the price shall be as follows:

From the first of September to the first March,	$1.22
From the first of March to the 31st of August,	1.07

Spadra.

For screened coal per ton, from the first of September to the first of March, 1.02

From the first of March to the 31st of August, .92

For all coal under three feet in height, for each three inches less of coal, shall be 5 cents per ton additional to above prices.

The price for narrow work shall be as follows:

20 feet gob entries or air courses per yard,	$1.00
20 feet gob entries or air courses per yard,	1.18
16 feet gob entries or air courses per yard,	1.42
12 feet gob entries or air courses per yard,	1.65
8 feet entries or air courses per yard,	1.89

Paris.

For mining hand-picked or forked coal free from slate,
1302 slack and other impurities, $1.05 per ton shall be paid.

Where draw slate or rock comes with coal the following prices shall be adopted:

For all over one inch and under five inches, five cents per ton extra; over five inches and less than ten inches, 9 cents per ton extra; over ten inches and less than fifteen inches, 14 cents per ton extra; over fifteen inches and less than twenty inches, 19 cents per ton extra.

The price to be paid for screened coal at McCurtain to be determined by test.

The brushing price at Bonanza, Jenny Lind, All brushing 16 inches, per yard, $1.06.

and over 16 inches 7 cents for each inch extra.

The company shall have the right to do all brushing by shift work at $2.42 per day when desired.

All cross-cuts in rooms shall be, per yard,	1.06
All room turning shall be, per yard,	1.06

Russellville.

Ten cents per ton less than the price paid at Ouita.

Entry, Yardage, Etc.

Entry, yardage and deficient work will be reduced 5.55 per cent. The same rules and customs defining deficient work in District 21 shall be in force during the life of this agreement.

Coal Hill and Denning shall be $1.32 for eighteen inches of brushing. Where the company requires more than eighteen inches to be brushed, they agree to pay eight cents per inch for each additional inch over the eighteen inches.

Draw slate in air courses will be paid as follows:

For three inches or over, 24 cents.

1303 For six inches or over, 47 cents.

For nine inches or over, 71 cents.

For twelve inches or over, 94 cents per yard.

All coal in Arkansas two feet ten inches and less in height shall be considered deficient work, except where special price has been made.

Scale of prices to be paid for draw slate and rock at Bache & Denman's mines at Burma and Montreal No. 2:

Over four inches and up to eight inches, 53 cents per yard. Over eight inches and up to 12 inches, 79 cents per yard. Over twelve inches, to be settled locally. Brushing entries to be $1.33 per yard.

Where bottom is taken up in rooms and room necks it shall be paid 53 cents per yard. This applies to Bache & Denman's mines at Burma only.

All break-throughs in Arkansas, when required to cut through, to be paid at the present rate, less 5.55 per cent.

Pick Mining at McCurtain.

Mine No. 2: Company to pay Arkansas mine run price until installs standard Arkansas screen, when there may be a test run, to determine proportion of lump as compared to average Arkansas coal. Test shall be run the first twenty-one days after Company goes on lump coal basis, [nunder] conditions prescribed by the Commissioner representing the operators and the President of District 21, representing the miners. These two, if unable to agree on result, may call in a third party, the decision of any two to be final. The company, after such test, remain on lump basis at the rate so agreed upon. While running on mine run basis any miner persisting in making an unreasonable amount of slack under con-
1304 ditions prevailing at Mine No. 2, after being cautioned by pit boss, may be discharged.

Mine No. 3: Scale of District 2, with waiver of right to lump coal basis, until development shall have sufficiently pro-

gressed to show characteristics of coal to be equal to average Arkansas Coal. This determination to be made by Commissioner representing operators and President of District 21, representing miners, and to be settled by calling in third party in event of disagreement.

Company may work on yardage basis during development.

The prices for yardage at mine No. 2 and mine No. 3, shall be as follows:

Entries, per yard,	$2.13
[Aair] courses, per yard,	2.13
Crosscuts, per yard,	1.59
Room turning,	3.19

The Pittsburg Agreement shall cover all entry room turning and deficient work at Russellville, and the company shall pay 85 cents per yard for first cut in rooms for actual measurement.

McCurtain Punching Machine Scale.

Cutting in rooms and [rokm] break-throughs shall be 12-½ cents per ton mine run to be divided three-fifths to cutter and two-fifths to helper.

Cutting in entries and all other narrow work except room break-throughs shall be sixteen and one-half cents, divided three-fifths and two-fifths as above. No yardage.

Loaders in rooms (including room break-throughs) shall receive forty cents per ton mine run; loaders to furnish powder and do all work ordinarily done by pick miners in rooms, except cutting.

1305 Loaders in entries and all other narrow work (except room break-throughs) shall receive forty-five cents per ton. No yardage. Loaders to furnish powder and do all work ordinarily done by pick miners in entry work, except cutting.

Scale of District No. 3.
Texas.

Section 1. That the price for mining coal on the screened coal basis be as follows:

For Thurber, from the 1st of September, 1904, to the 31st of January, 1905, $1.15 per ton of 2000 pounds. From February 1 to August 31, 1905, $1.17-½ per ton.

For Rock Creek, from September 1, 1904, to January 31, 1905, $1.17-½ per ton; from February 1, to August 31, 1905, $1.20 per ton.

Strawn, from September 1, 1904, to August 31, 1905, $1.25 per ton.

Bridgeport, from September 1, 1904, to August 31, 1905, $1.40 per ton.

Prices to continue on same rates until end of contract period.

Screens.

The screens to be six feet wide, fourteen feet long, diamond shape bars with one inch space; grooved rests to be placed not more than two feet apart. This is to apply to Thurber, Strawn and Rock Creek. Bridgeport screens to remain as heretofore.

Entry Driving and Brushing.

Section 2. For Thurber, Strawn and Rock Creek, [heighth] to be four and one-half (4-½) feet above the rail; for Bridgeport four (4) feet above the rail; for Thurber and
1306 Strawn, the width between walls to be eight (8) feet. Brushing six feet (6) wide at the top. Tock Creek, as required at the discretion of the management, but in no case shall it be higher or wider than the above. At Bridgeport the width between walls to be six (6) feet, brushing to be four and one-half (4-½) feet wide at the top.

The price to be $1.22 per yard.

1. The price on back brushing shall be 97 cents per yard at Thurber, Strawn and Rock Creek, and $1.12 per yard at Bridgeport., Brushing to be taken so that six and one-half (6-½) feet shall be above the rail, and four and one-half (4-½) feet wide at the top, in Thurber, Strawn and Rock Creek. At Bridgeport brushing to be taken six (6) feet above the rail and three and one-half (3-½) feet wide at the top.

2. The brushing in rooms at Thurber, Strawn and Rock Creek shall be four and one-half (4-½) feet above the rail; at Bridgeport, four (4) feet above the rail. This height to apply nine feet from the face of coal.

3. For straights, the price shall be 24¢ per yard at Thurber, Strawn and Rock Creek. Bridgeport to be exempt.

4. The switch room to be the fourth within the face of entry.

5. Room turning as follows: Cribs, 73¢ each; brushing to be the same width, height and price as entry work.

6. All rails, ties, timber and other material to be delivered by the company at the switch room of each place.

7. All dead and deficient work to be left for local settlement.

Inside Day Wage Scale.

	Section 3	Per day.
1307	Track layers,	$2.33
	Timber men,	2.33
	Ventilators,	2.33
	And miners when taken from face,	2.33
	Drivers,	2.19
	Cagers,	2.19
	Motormen,	2.28
	[Watern] bailers,	2.19
	Trappers,	1.02
	Greasers and spraggers, maximum,	1.46
	Greasers and spraggers, minimum,	1.22
	Pushers, Maximum,	2.19
	Pushers, minimum,	1.94
	Sinkers,	2.43
	Shift leaders,	2.67
	Mule feeders, per month $43.75 to $48.61.	

Outside Day Wage Scale.

Section 4.

	Blacksmiths, Thurber, Rock Creek and Strawn,	2.55
	[Hlacksmith] helpers, Thurber, Rock Creek and Strawn,	1.85
	Blacksmiths at Bridgeport	2.19
	Firemen,	1.94
	Dumpers,	1.75
	Car trimmers,	1.75
	Slate men,	1.85
1308	Slate pickers,	$1.22 to $1.46
	Engineers, first class,	$68.06
	Engineers, second class,	63.20
	Engineers, third class,	58.34

For engineers, a [qorking] month to consist of twenty-six (26) working days of nine (9) hours per day, and all time worked in excess of this to be considered over-time and paid for proportionately.

Machine Mining Scale.

The price for loading after machine shall be 65¢ per ton, where company does the room brushing and 77¢ per ton where loader does room brushing, the loader to take care of his place, to do his own timbering, etc., in the same manner as a pick miner, to keep the face clear from the machine,

and leave not less than three feet space between the face and the props otherwise necessary.

Machine runner, per day,	$2.58
Machine helper,	2.19

Powder.

Section 6. The price of powder shall be $2.00 per keg of 25 pounds.

Pay Days.

Section 7. The pay days to be on the first and third Saturdays in each month. The full statement to be issued to employes on the third Saturday only, which shall cover all operations up to the first of each current month. On the first Saturday, employes shall be required to give a receipt for pay received.

Section 8. Any miner or mine laborer desiring to leave the service of the company shall give notice to the
1309 superintendent or general manager and shall receive his money in full not later than five (5) days from the date of such notice.

Strawn.

Agreement arrived at October 19, 1903, between the operators of Strawn and the U. M. W. of A. in reference to the development of new mines.

For developing a new mine, when worked by the day, the price shall be $2.67 per day, company to furnish powder and tools.

Entries, when driven by yard, 8 feet wide, $2.43 per yard.

Entries, when driven by yard, 10 feet wide, $2.67 per yard.

[Entties,] when driven by yard, 16 to 18 feet wide, $1.94 per yard, and miners to get coal.

Dimensions of brushing to be same in regard to height and width as specified in contract.

When three shifts are worked by day work, it is understood that the men shall not be docked for any reasonable time taken to eat dinner, but it shall be so arranged that the men shall eat alternately so as not to stop operations unless by request of the men, they stop all operations for a half hour for the purpose of eating, then one-half hour shall be docked from their wages.

The price of mining coal at the mines of the Mount Marion Coal Mining Company, Strawn, shall be $1.25 per ton until March 31st, 1906, inclusive.

The question of prices for mining coal at the Mt. Marion Coal Mining Company's mine at Strawn, shall be taken up and adjusted by the Operators' Commissioner and the President of District 21 whenever it becomes necessary.

General Conditions.

1310 There shall be two pay days a month and the operators shall issue to each employe a statement of his account, which the employe may retain. The dates of pay days shall be arranged between the respective companies and their employees.

Where air courses are [diven] in chute or platform work, that is, where the coal is in a greater pitch than twenty degrees shall be considered as air courses, and it shall be paid for at the regular district price, provided such air course or breakthrough is cut or sheared before being shot.

The company shall put in all batteries, wing boards and platforms in all chute work in District No. 21.

The miners shall load their own coal in pitching veins in this district at the regular scale price.

No person employed under ground shall use an inferior grade of lard oil, and the use of any other except lard oil is prohibited. Rope riders in mine slopes are excepted.

The taking up of bottom for stub switches for chute rooms will be done by the miner, and payment for same is referred to Local Union and mine officials for adjustment. In the event of their failure to agree, general resolutions to govern.

Where coal is screened before being weighed it shall be dumped on flat sheets and passed over the screen specified in the Pittsburg Agreement, and there shall be no obstruction on said screen.

When an employe leaves the employment of a company he shall receive all money due him within three days from the date of notice. Settlements must be asked for between the hours of 8 a. m. and 6 p. m., on day settlement is due.

1311 All company men shall receive an equal share of all work when competent to do such work.

The gas men shall place marks at last inside breakthrough, showing clearly whether there is any standing gas

in working place. Should there be standing gas, he shall place gas mark at toom neck in addition to mark at inside break-through; but should working place be clear, he shall place marks so indicating this at coal face. No miner shall be permitted to brush out gas.

Miners shall have the right to send out their dull tools on top of loaded cars, and the company shall deliver same to blacksmith shop for sharpening, and no man be allowed to carry tools up or down shaft. In slopes the company shall deliver the same to parting at bottom. The company shall not be responsible for tools.

And under-ground employe not on hand to go down to work at the hour for commencing work, shall not be entitled to go below except at the convenience of the company.

When an employe is sick or injured he shall be given a cage at once. When a cage load of men come to the bottom of the shaft who have been prevented from working by reason of falls or other things over which they have no control, they shall be given a cage at once. For the accommodation of individual employes less than a cage load who have been prevented from working as above, cage will be run mid-forenoon, noon and mid-afternoon of each working day. Provided, however, that the foregoing shall not be permitted to enable men to leave their work for other than the reasons stated above.

The sinking of slopes and driving narrow work through faults shall be left to Local Union and mine management for adjustment. All double-shift places to be paid
1312 twenty-six cents per yard extra.

All wet entries, rooms, slopes, slope air courses and all other work connected with the slopes shall be left to Local Union and superintendent or manager for agreement of price.

Frozen or seamy coal, struck top or bottom, shall be deficient work, and shall be paid for extra, the same to be determined by mine committee and pit boss. If they fail to agree the miner shall be given an average place in the mine.

There shall be no deduction for school purposes except authorized by the individuals.

For the health and safety of the miners' lives, air courses shall be kept up with the entries as near as possible, and cross cuts shall be driven every forty feet; where gas ex-

ists they shall be driven every thirty feet. No room shall be turned inside the last cross cut.

Scale price for blacksmithing miners' tools and machine mine tools:

Three-fourths of one per cent on gross earnings for blacksmithing of miners' tools, and three-eighths of one per cent on gross earnings for machine coal loaders' tools.

All sharpening and repairs of tools shall be done as promptly as possible.

The District President of the United Mine Workers of America, the Commissioner of the Southwestern Interstate Operators' Association and the State Mine Inspector shall be a committee of three to determine at what places shotfirers shall be employed in Arkansas.

The present conditions in regard to double and single work shall prevail.

1313 Any employe absenting himself from work two days and not reporting for work on the morning of the third day, shall forfeit his right to his working place, unless excused by mine foreman, but shall be given another place on turn; provided, however, this shall not apply in case of sickness.

Where a fall occurs in any working place, the company shall make preparations to clean up same within four hours from time of notice; failing to do so the miner or miners affected shall clean up same, company paying at the rate of $2.42 per shift.

Price for moving all draw slate and rock exceeding two inches in thickness, two and one-half cents per inch per running yard for each five feet in width, and all over and above to be paid accordingly. This applies to all mines except where there is a special contract.

Where rooms are driven up narrow on account of bad top, the yardage shall be same as that in air course, measurements to be made from the entry; and when room is widened out one-half room turning shall be paid. Where bottom is taken up entry yardage shall be paid. This does not apply in rooms that have been widened out, then narrowed up and re-necked, but in these cases the prices now in effect shall prevail, less 5.55 per cent.

When a car leaves working place it is in charge of the company and average weight shall be paid for broken cars.

Such cars shall be reported by the man that dumps the coal. The company shall keep all cars in good repair.

All coal four feet and over where it comes down to under a thickness of three feet four inches, shall be declared deficient work. This applies to Arkansas and the In-
1314 dian Territory

Where cars are delivered at working face all timber and rails shall be delivered there.

Where powder is taken into the mine in kegs it shall be delivered to the working place; otherwise it shall be handled according to the methods in vogue at the various mines.

Where miners at Coal Hill, No. 18 Jenny Lind, and Denning, Arkansas, have been pushing cars both ways, the company shall assist the miner one way when necessary; and all miners in the Indian Territory who have been pushing their cars both ways, shall receive for all coal pushed over 200 feet, five cents ton extra. The conditions that prevail at Lehigh apply to all mines on the Atoka Track in regard to lowering cars down to the switch.

All questions that have been left to the President of the United Mine Workers of America, District 21, and Commissioner of the Southwestern Interstate Coal Operators' Association, or to arbitration, shall become a part of this contract and be binding upon both parties when the same have both been decided and agreed upon by the said President and Commissioner, or by arbitration: and the operators shall furnish the District Secretary of the U. M. W. of A., and also post at the mines the prices to be paid on and after September 1, 1904, based hereon.

Color shall be no bar to employment.

Powder.

The price of powder shall be $2 per keg during the term of this contract.

In behalf of the Southwestern Interstate Coal Operators' Association.

B. F. BUSH, President.
1315 S. W. KNIFFEN,
Sectrary.

In behalf of the miners;

PETE HANRATY,
FRANK J. McGUIRE,
T. H. LEPPS,
JOHN MORGAN,
B. F. CLEVENGER.

Appendix.

The President of District 21 and the commissioner of the Southwestern Interstate Coal Operators' Association, having under consideration the question of payment for double shifting places, agreee that whenever the company requires a double shift to be worked in one place, it shall be paid at the rate of 26c per yard extra.

The wage for all pump men under ground is $2.56 per eight hour day. For pump men above ground, $2.02-½, except men receiving $2.00 or over per day for eight hours last year, the advance will be 12-½ per cent.

It is agreed between the representatives of the Miners and the representatives of the Operators, on making of the scale, that wherever a reduction applied on work is less than one-half of 1c, the present price remain unchanged.

Special provision applicable to Texas alone.

Check-offs.

Section 6. The operators will recognize the pit committee in the discharge of their duties, as provided in this agreement, and agree to check off dues, assessments, fines and initiations from all miners and mine laborers when desired.

In order to protect the companies, the United Mine
1316 Workers of America agree, when the companies so demand, to furnish a collective and continuous order authorizing the companies to make such deductions. The companies agree to furnish the miners' local representatives a monthly statement showing separately the amount of dues, assessments, fines and initiations collected. In case any fine is imposed the propriety of which is questioned, the amount of such fine shall be withheld by the operator until the case has been taken up for adjustment and a decision rendered.

It is agreed that the miners may employ a check weighman to see that coal is properly weighed and a correct record made thereof; and when such check weighman is employed the companies shall furnish him a check number, and he shall credit to his [numbe] such portion of each miner's coal as he may be authorized to do by the local union. It is also understood that the local union may have a number in order to collect dues, assessments, fines and initiations from the miners and mine laborers, and the local union shall notify the company by giving the names in writing of the person or persons

authorized to collect such union money from the company office.

The dues and assessments to be deducted on the first working day of each month or on the first day that employes commenced work."

1317 Q. Mr. Covington: These exhibits I am now offering, we can consider as read in evidence, in order to shorten the time greatly.

The Court: Yes, proceed, we will consider it as read.

Q. When did the miners and operators next meet?
A. 1906, I think.
Q. Were you in that conference? A. I think so.
Q. Where was it held? A. Pittsburg, Arkansas City.
Q. How were [theye]conventions composed—I mean by that, how was the membership of the convention made up on both sides, operators and miners?
A. The representatives of the various coal companies who were members of the operators association represented the operators, and the miners were represented by their officers and delegates, I think, I am not positive of it; delegates from the various locals.
Q. Were you in the 1904 convention as representative of some of the plaintiffs?
A. Yes, and also in 1913 and '04, both, I think I chiefly represent other mines that are not plaintiff, that belonged tc the Midland Valley Railroad.
Q. In 1906 did you represent the plaintiffs, in the 1906 conference? A. All the plaintiffs that were operated at that time I did.
Q. Do you recall the names of the particular plaintiffs that were operating at that time?
A. The Mammoth Vein Coal Company,—I would be sure of, and I think the Denman Company. I won't be certain as to what other ones, because I don't remember which ones were started by that time.

1318 Q. At the time of making the 1904-1906 contract, were you then conversant with the competitive conditions that you related here in your direct examination last Friday and Saturday?
A. In a general way I was, but not to the same extent that I afterwards became, of course.
Q. Did you have any more information in regard to that particular matter than you had in 1903?
A. In 1904, you mean?
Q. No, in 1904 and 1906.

A. Yes, sir, I have no doubt that my information increased from year to year.
Q. To what extent?
A. Oh, I cannot say. The more coal we sold and the more coal we mined, the more we learned about the competition.

Mr. Covington: I would like to ask that this paper be marked as an Exhibit.

(Paper was marked by the stenographer as Exhibit 9.)

Q. I hand you defendants Exhibit 9, and will ask you what it is.
A. Joint interstate agreement contract for District 21 of operators and miners, adopted at Kansas City, Missouri, June 16, 1906, for period ending March 31, 1908; South west Interstate Coal Operators Association and United Mine Workers District 21.
Q. Were you in the conference that concurred in the adoption of that contract, were you, as a representative of the companies you have named? A. I think so.

Mr. Covington: I wish to offer in evidence Exhibit 9.

The Court: It will be received.

(Exhibit 9 so offered in evidence is in words and figures following, to-wit:)

1319 Defendants' Exhibit No. 9.

Joint Interstate Agreement of Operators and Miners Adopted at Kansas City, Mo., June 16, 1906 for the Period Closing March 31, 1908.

General Conditions.

Section 1. All classes of day labor are to work full eight [house], and the going to and coming from the respective working places is to be done on the day hand's own time. All company men shall perform whatever day labor the foreman may direct. An eight-hour means eight hours work in the mines at the usual working places, exclusive of noon time—which shall be one-half hour—for all classes of inside day labor. This shall be exclusive of the time required in reaching such working places in the morning and departing from the same at night.

Drivers shall take their mules to and from the stables and the time required in so doing shall not include any part of the day's labor; their time beginning when they reach the

change at which they receive empty cars—that is, the parting drivers at the shaft bottom and the inside drivers at the parting—and ending at the same places; but in no case shall a driver's time be docked while he is waiting for such cars at the points named. The inside drivers, at their option, may either walk to and from their parting or take with them, with out compensation either loaded or empty cars to enable them to ride. This provision, however, shall not prevent the inside drivers from bringing to and taking
1320 from the bottom regular trips, if so directed by the operator, provided such work is done within the eight hours.

When the stables are located outside the mine the companies agree to deliver the mules at the bottom of the shaft in the morning and relieve the drivers of the mules at the bottom of the shaft at night.

When the men go into the mine in the mine in the morning then shall be entitled to two hour's pay whether or not the mine works full two hours; but after the first two hours the men shall be paid for every hour thereafter, by the hour, for each hour's work or fractional part thereof. If, for any reason, the regular work cannot be furnished the inside day laborers for a portion of the first two hours, the operators shall furnish other than the regular labor for the unexpired time.

Penalties for Loading Impurities.

Sec. 2. In order to insure the production of clean, marketable coal, it is herein provided that if any miner shall load with his coal, sulphur, bone, slate, blackjack or other impurities, he shall for the first offense, be notified by mine foreman; for the second offense he may be suspended for one day; for the third and each subsequent offense occurring in any consecutive 30 days he may be suspended for 3 days; provided that if in any case, it is shown that a miner maliciously or knowingly loads impurities he shall be subject to discharge. It is further agreed that if any miner has been suspended and claims that an injustice had been done him, the matter shall be taken up for investigation and adjustment in the manner provided in Section Three of this Agreement.

Duties of Pit Committee.

1321 Sec. 3. (a) The duties of the pit committee shall be confined to the adjustment of disputes between the pit boss and any member of the U. M. W. of A., working in and around the mines, arising out of this agreement or any

District agreement made in connection therewith, when the pit boss and said miner or mine laborer have failed to agree.

(b) In case of any local trouble arising in any mine through such failure to agree between the pit boss and any miner or mine laborer, the pit committee and the pit boss are empowered to adjust it, and in the case of their disagreement it shall be referred to the superintendent of the company and the district president of the U. M. W. of A., or such person as he may designate to represent him; and should they fail to agree it shall be referred to the commissioner of the Southwestern Interstate Coal Operators' Association and the district president of the U. M. W. of A. for adjustment; and in all cases the mines, miners, mine [laborrers] and parties involved must continue at work pending an investigation and adjustment. And in case the Commissioner and district president fail to reach an adjustment, the dispute shall be referred to the reference board hereinafter provided.

(c) If any day men refuse to continue at work because of a grievance which has or has not been taken up for adjustment in the manner provided herein, and such action shall seem likely to impede the operation of the mine, the pit committee shall immediately furnish a man or men to take such vacant place or places at the scale rate, in order that the mine may continue at work, and it shall be
1322 the duty of any member or members of the United Mine Workers who may be called upon by the pit boss or pit committee to immediately take the place or places assigned to him or them in pursuance thereof. Provided that this paragraph shall not prevent the enforcement of the other penalties herein provided for.

(d) The pit committee, in the discharge of its duties shall under no circumstances go around the mine for any cause whatever unless called upon by the pit boss or by a miner or company man who may have a grievance that he cannot settle with the boss. Any pit committeeman who shall attempt to execute any local rule or proceeding in conflict with any provision of this contract, or any other made in pursuance hereof shall be forthwith deposed as committeeman. The foregoing shall not be construed to prohibit the pit committee from looking after the matter of membership dues and initiations in any proper manner. The pit committeemen shall be elected to serve for one year unless deposed for cause.

(e) Members of the pit committee employed as day men shall not leave their places of duty during working hours except by permission of the operator, or in cases involving the stoppage of the mine.

(f) The right to hire and discharge, the management of the mine and the direction of the working force are vested exclusively in the operator; and the U. M. W. of A. shall not abridge this right. It is not the intention of this provision to encourage the discharge of employees or the refusal of employment to applicants because of personal prejudice or activities in matters affecting the U. M. W. of A. If any employe shall be discharged or suspended by the com-
1323 pany and it is claimed that an injustice has been done him, an investigation, to be conducted by the parties and in the manner set forth in paragraphs "a and b" of this section shall be taken up promptly and if it is proven that an injustice has been done, the operator shall re-instate said employe and pay him full compensation for the time he has been suspended and out of employment.

Local Demands.

Sec. 4. There shall be no demands made locally by either operators or miners which are in conflict with this agreement, or any District agreement, and there shall be no provisions imposed violating the same.

If any mine or any substantial part of a mine is laid idle or shut down in violation of this contract by any operator or any agent of any operator, such operator shall pay to the mine workers employed in said mine who are thereby laid idle the sum of one dollar per day for each of such mine workers for each day or part of day which said mine is so laid idle, which sum shall be added to the regular pay account of each of said mine workers and be paid him with such regular account.

If any mine or any substantial part of a mine is shut down or laid idle in violation of this contract by any local union, member or members of any local union, pit committee, check-weighman, or other or different officer or officers or committee of the U. M. W. of A. said operator may withhold for his own use from any fund checked off by him or it from the wages of the employees at said mine and otherwise payable by said operator to the officers of the local
1324 union having jurisdiction over the workmen at said mine, a sum equal to fifty cents per day per man for all the United Mine Workers who are so idle at said mine

for each day or part of a day such mine or substantial part thereof is so shut down or laid idle.

Any question or disagreement as to any such shut-down or the laying idle of any mine being in violation of this contract and the rights of the injured party to the indemnity or penalties hereby prescribed shall be determined and finally settled as other disagreements are provided to be settled, by Section 13 of this agreement. But no indemnity or penalty above provided shall be withheld or paid to the party entitled thereto until disagreeemnt concerning the same has been so finally determined.

Payment of Wages.

Sec. 5. The operators agree to pay twice a month, the date of payment to be determined by the district joint conventions; and these payments are to be made at the office nearest to the mine wherein or at which the employees are employed; provided, however, that this office shall be located not more than two miles from such mine.

Check-Off.

Sec. 6. The operators will recognize the pit committee in the discharge of their duties, as provided in this agreement, and agree to check off dues, assessments, fines and initiations from all miners and mine laborers when desired. In order to protect the companies, the U. M. W. of A. agrees, when the companies so demand, to furnish a collective and continuous order authorizing the companies to make such deductions. The companies agree to furnish the min-
1325 ers' local representatives a monthly statement showing separately the amount of dues, assessments, fines and initiations collected. In case any fine is imposed the propriety of which is questioned, the amount of such fine shall be withheld by the operator until the case has been taken up for adjustment and a decision reached.

It is agreed that the miners may employ a check-weighman to see that coal is properly weighed and a correct record made thereof, and when such check-weighman is employed the companies shall furnish him a check number, and he shall credit to his number such portion of each miner's coal as may be authorized to do by the local union. It is understood that the above provision shall not effect the arrangements now exisiting at any mine where a check number is issued in the name of the local union, and dues, assessments, fines and initiations collected by this method.

Measurements.

Sec. 7. It is agreed that measurements of entries, brushing, room turning and deadwork shall be made semi-monthly, and payment in full shall be made for such work in the same manner as that in which other work is paid for.

Equal Turn.

Sec. 8. The operator shall see that an equal turn is offered each miner and that he be given a fair chance to obtain the same. The check-weighman shall keep a turn bulletin for the turn-keeper's guidance. The drivers shall be subject to whomever the mine manager shall designate as turn-keeper in pursuance hereof.

Deaths and Funerals.

Sec. 9. In the event of an instantaneous death by accident in the mine, the miners and under-ground em-
1326 ployes shall have the privilege of discontinuing work for the remainder of that day, but work at the option of the operator, shall be resumed the day following and continue thereafter. In case the operator elects to operate the mine on the day of the funeral of the deceased, as above, or where death has resulted from an accident in the mine, individual miners and underground employes may, at their option, absent themselves from work for the purpose of attending such funeral, but not otherwise. And whether attending such funeral or not, each member of the U. M. W. of A. employed at the mine at which the deceased member was employed, shall contribute fifty (50) cents and the operator twenty-five ($25) for the benefit of the family of the deceased or his legal representatives, to be collected through the office of the company. In the event that the miners are thrown idle on account of the miners' or other employes' failure to report for work in the time intervening between the time of the accident and the funeral, or on the day of the funeral, then the company shall not be called upon for the payment of the twenty-five dollars ($25) above referred to. Except in case of fatal accidents, as above the mine shall in no case be thrown idle because of any death or funeral; but in case of the death of any employe of the company or member of his family, any individual miner may, at his option, absent himself from work for the purpose of attending such funeral, but not otherwise.

Doctor

Sec. 10. No deduction shall be made for doctors unless such deduction is authorized by the individual employe.

Condition Of The Mine

Sec. 11. The company shall keep the mine in as dry
1327 condition as practicable, by keeping the water off the road and out of the working places. When a miner has to leave his working place on account of water, through the neglect of the company, they shall employ said miner doing company work when practicable and provided that said miner is competent to do such work, or he will be given another working place until such water is taken out of his place.

Provisions For Injured

Sec. 12. The operators shall keep sufficient blanks, oil, bandages, etc., and provide suitable ambulance or conveyance, readily available at each mine to properly convey injured persons to their homes after an accident.

Board Of Reference

Sec. 13. A Board of Reference is hereby created, composed of three District Presidents on the part of the miners, and the President, Secretary and Commissioner of the operators' association on the part of the operators, to whom all disputes arising under the contract and not otherwise settled as therein provided shall be referred. Said Board of Reference shall have full power, by majority vote, to decide all controversies so referred to it. When the Board is unable to agree, it shall, by unanimous vote, select a seventh member, who shall have the same power as the other members of the Board. The seventh member shall be selected witin five days from the date of disagreement.

Suspension Of Mining

Sec. 14. In case of either local or general suspension of mining, either at the expiration of this contract or otherwise, the engineer shall not suspend work, but shall, when mining is suspended, fully protect all the companies, prop-
erty under their care, and operate fans and pumps
1328 and lower and hoist such men or supplies as may be required to protect the company's property, and any and all coal required to keep up steam at the company's coal plants. But it is understood and agreed that the operator will not ask them to hoist any coal produced by non-union labor for sale on the market. Should the interest of the engineers be directly involved in any issue at the expiration of this contract, and any engineers cease from work, the United Mine Workers of America will provide competent men to perform the emergency work above recited at the

scale price in effect at the time of the suspension, subject to any subsequent settlement. The operator, at his option, to retain only such engineers as are required, but with the understanding that all of the engineers employed at the time of the suspension shall be entitled to an equal division of the work.

Reinstatement Of Old Employes

"That is [is] the understanding that every employe who quit work by order of the U. M. W. of A. shall be reinstated at his former employment as soon as practicable and within two weeks after the resumption of work.

"It is also the understanding that the employes who have worked during the suspension may be retained, without prejudice, in the employment of the operators at any work that will not prevent the return to his place of every employe who quit work by order of the organization."

District Conventions

There shall be no joint district conventions; all contracts, interstate and district, shall be formulated and executed by the joint interstate convention.

Powder

The price of powder shall be $2 per keg during the
1329 term of this contract.

Meeting Of Next Conference

That the next interstate joint conference meet in Kansas City, Mo., and that the date of meeting will be fixed by the Executive Committee of the Southwestern Interstate Coal Operators' Association and the District Presidents of the U. M. W. of A., of District 14, 21 and 25, not later than March 1st, 1908.

In behalf of the Southwestern Interstate Coal Operators' Association.

W. C. Perry, President.
S. J. Tonkin, Secretary.

In behalf of the Miners.
Pete Hanraty, Pres. Dist. No. 21.
Geo. Colville, Pres. Dist. No. 25.
Alex. Howat, Pres. Dist. No. 14.

Contract For District 21 U. M. W. A.

Adopted at Kansas City, Mo., June 16, 1906, for the Period Ending March 31, 1908.

Prices For Mining In Indian Territory.

Colgate, Edwardsville, Brewerville, Baker, Krebs No. 11, No. 5 and No. 7, Buck No. 6, Hartshorne, Haileyville, Gowen, Wilburton, Lutie, Turkey Creek and Witteville, per ton for mine-run coal, 72 cents.

Alderson, Krebs No. 8, Carbon Bache, Dow, Craig, per ton for mine run coal, 77½ cents.

Lehigh, for screened coal, 90 cents.

Bolen-Darnall, McAlester mines, per ton, hand picked coal, $1.00.

All entry, yardage and deficient work shall be paid 1903 rate, and the same rules and customs then existing in
1330 District 21 shall be continued in force during the life of this agreement.

In rooms, room necks and cross cuts at Midway the prices shall be eighty cents per ton mine run coal. Coal mined in entries and air courses, the price shall be seventy-four cents per ton mine run. The price per ton at Midway shall cover all bottom taken up and the removal of top bony.

All yardage, entry and dead work at Midway, also the inside and outside day wage scale, to be paid 1903 rate.

For taking up bottom at the Colgate Company's mine, the following prices shall be paid: Where prevailing height is required, seven cents per inch for each inch when coal is less than four feet in thickness. This does not include all bottom, but only that representing the difference between the actual thickness of the coal and four feet.

The price for yardage and dead work at No. 7 Krebs, shall be as follows:

Where coal is three feet eight inches and under, same rates will be paid as No. 8 Krebs. Where coal is over three feet eight inches, same price will be paid as at No. 11 Breks.

The price for mining low vein coal at Turkey Creek shall be $1.00 per ton mine run. The conditions relating to mining coal at present to remain unchanged.

Prices on yardage and dead work paid 1903 rate. Room cross cuts will be paid the same as air courses where they are cut.

Scale of prices on cross-bars, dirt and deficient narrow work in room necks at the mines on Atoka track, excepting Midway.

Setting cross-bars thirty-three cents, eight foot bar. Loading [dirty] in cars, twenty-seven cents per car. Air course yardage in rooms turned off the entry where
1331 top will not allow widening out. Where bottom is required to be taken up, entry prices shall be paid. One half room turning price to be paid for widening out. Measurements to begin at entry and end at point of widening out.

Prices on clod or Bolen-Darnall and Samples' mines shall be paid for in accord with decision of district president and commissioner.

All break-throughs in the Indian Territory shall be driven from six to eight feet wide, and paid for at the 1903 rate. Measurement to be made from lower rib.

The prices now in force at Wilburton to be as follows:

Scale of prices governing yardage at mines of the Great Western Coal and Coke Company, at Wilburton, I. T.:

For loading dirt and rock where same can not be gobbed, 28 cents per car.

For entry work where brushing is not required, per yard $2.25.

Where brushing is required, it shall be paid for at the rate of 47 cents for eight (8) inches or 6 cents per inch.

Air courses shall be paid for at the rate of, per yard $1.81.

Bottom brushing shall be paid for at the rate of 56 [fents] per yard, where it is taken up, for turning rooms.

The price of setting cross-bars shall be 26 cents per bar, under same conditions which have existed during the past year.

The price of soda powder at Krebs shall be $2.00 per keg.

All coal in the Indian Territory under two feet ten inches on the 77½ cent rate be declared deficient.

At Witteville the price for entry shall be $2.70 per yard, brushing included; for air course, $1.90 per yard.

All coal under four feet in height in the Indian Ter-
1332 ritory where bottom brushing has not been paid for in rooms, it shall be paid for at 2¼ cents per inch per yard to make the required height; and in Arkansas the same price and prevailing conditions shall apply to digging bottom in rooms.

Sutter And Witteville No. 4.

The mining price at Sutter, Indian Territory and mine No. 4, Witteville, shall be 99 cents per ton for coal screened over the standard diamond top screen of following dimensions: Width, six feet; length, twelve feet; space between bars to be 1-⅛ inch. Rood turning to be $5.62½.

All entry, yardage and dead work to be 1903 rate.

All refuse matter thrown into gob shall not be loaded unless same shall be paid for. Rate of payment on such work to be agreed on by the company's representative and the pit committee. All coal shall be loaded the same as run mine coal in the Pittsburg Agreement, namely, every precaution shall be used to prevent the loading of dirt. The rule adopted by the Pittsburg Conference for the loading of impurities shall not apply to Sutter and Witteville No. 4 to impurities passed through the screen, but to impurities passed over the screen, except where a miner does not use due caution or maliciously loads impurities.

Howe, Indian Territory, shall be included in Scale District No. 2.

McCurtain shall be included in Scale District No. 2.

Pick mining at McCurtain:

Mine No. 2. Company to pay Arkansas mine run price until it installs standard Arkansas screen, when there may be a test run to determine proportion of lump as compared to Average Arkansas coal. Test shall be run the first
1333 twenty-one days after company goes on lump coal basis, under conditions prescribed by commissioner representing operator and president of District 21 representing the mines. These two, if unable to agree on result may call in a third party, the decision of any two to be final. The company, after such test, remain on lump basis at the rate so agreed upon. While running on mine run basis any miner persisting in making an unreasonable amount of slack under conditions [premailing] at Mine No. 2, after being cautioned by it boss may be discharged.

Mine No. 3. Arkansas scale with waive of right to rump coal basis until development shall have sufficiently progressed to show characteristics of coal to be equal to average Arkansas coal. This determination to be made by Commissioner representing operator and President of District 21, representing miners, and to be settled by calling in third party in event of disagreement.

Company may work on yardage basis during development.

The prices for yardage at mine No. 2 and mine No. 3 shall be as follows:

Entries	$ 2.25	per yard
Air Courses	2.25	per yard
Cross Cuts	1.68¾	per yard
Room Turning	3.37½	

Scale Of Mining Prices At Henryetta, I. T.

Room And Pillar Mines, Shooting Coal

Min-run coal, 75 cents per ton, mining price to include the handling of cars between entry and switch and face of room, when one man can push loaded car. When one man cannot push loaded car, driver or pushed to assist miner. Mining rate also includes the laying of track in rooms.

Entries 12 feet wide or less, including brushing 5 feet
1334 high on top of rail, and 6 feet wide, $2.70 per yard.

When required to brush 6 feet high rail and 6 feet wide, $2.93 per yard.

All air-courses and break-throughs where cut, $1.80 per yard when not brushed.

Room-turning, 12 foot necks, $5.62; 6 foot necks, $2.82. Length of necks to be driven at the option of the operator.

Room and Pillar Mines, Mining Coal.

Prices for mining and cutting coal on both ribs shall be 97½ cents per ton, mine-run coal. Said mining price includes also the doing of all work specified in the above scale for room and pillar mines—shooting coal. Under this plan no powder shall be used. Prices and conditions for entry work in air-courses, break-throughs and room turning to be the same as specified in above scale for room and pillar mines, shooting coal.

Long Wall Mines.

The price for mining shall be 95 cents per ton, and shall include all work heretofore done by miners under present contract.

Each operator shall have the option of working his mine or mines under either of the above plans.

The last Pittsburg Agreement to govern all conditions not specified herein.

Machine Scale for Henryetta, I. T.

Loading, fifty (50) cents per ton; this price to include shooting down the coal, laying of track, timbering and taking care of the room, and pushing the cars both ways from the entry switch to the face and return. When one man cannot push loaded car, driver or [pushed] to assist loader in pushing the loaded car from the face to the switch.

Cutting, firteen (15) cents per ton to be divided, three-
1335 fifths to cutter and two-fifths to the helper or, otherwise, as they may agree among themselves.

These prices to cover all work in the mine.

Machine Scale for Indian Territory.

Loaders for chain machines are to receive forty-five cents per ton in all classes of working places.

Runners are to receive 5 cents per ton.

Helpers are to receive 4½ cents per ton.

Or runners are to receive $3.00 per day and helpers $2.75 par day, at the option of the company.

Loaders are to do all work now done by pick miners except cutting of coal; this includes taking up of the same amount of bottom under same conditions as applies to pick miners and furnish their own powder.

Day wage scale for loading after chain machines shall be $2.56. No loader will be employed on day wage scale where it is practicable to employ them on tonnage rate.

McCurtain Punching Machine Scale.

Cutting in rooms and room break-throughs shall be 12½ cents per ton mine run, to be divided three-fifths to cutter and two-fifths to helper.

Cutting in entries and all other narrow work except room break-throughs shall be sixteen and one-half cents, divided three-fifths and two-fifths as above. No yardage.

Loaders in rooms (including room break-throughs) shall receive forty cents per ton mine run; loaders to furnish powder and do all work ordinarily done by pick miners in rooms except cutting.

Loaders in entries and all other narrow work (except room break-throughs) shall receive forty-five cents per ton.
1336 No yardage. Loaders to furnish powder and do all work ordinarily done by pick miners in entry work except cutting.

Prices for Mining in Arkansas.

All coal in Arkansas, at the option of the operator, to be mined and paid for on a sliding scale in proportion to the per centage, or weight, of lump coal contained in the whole, based on the present prices and size of screens where such are established.

That the question of establishing a scale of prices for mining mine run coal in all the anthracite mines of Arkansas, be referred to Commissioner Brown, on the part of the operators, and District President Hanraty, of District 21, on the part of the miners for adjustment.

The price for mine run coal per ton shall be 62 cents.

For screened coal, per ton, 90 cents.

The operators are to have the option of paying on a screened coal or mine run basis. When the coal is mined on a screened coal basis, the screens used shall be not more than six feet wide, have bars not more than sixteen feet long and a 1-⅛ inch space between the bars.

Ouita.

For hand-picked coal, free from slack, slate, sulphur, bony and black jack, the price shall be as follows:

From the first of September to the first of March....$1.22

From the first of March to the 31st of August..... .92

For all coal under three feet in height, for each three inches less of coal, shall be 5 cents per ton additional to above prices.

The price for narrow work shall be as follows:

20 feet gob entries or air courses, per yard.....$1.12
1337 18 feet gob entries or air courses, per yard $1.25
16 feet gob entries or air courses, per yard 1.50
12 feet gob entries or air courses, per yard 1.75
8 feet gob entries or air courses, per yard 2.00
All brushing, 16 inches, per yard 1.12
and all over 16 inches, 7 cents for each inch extra.

The company shall have the right to do all brushing by shift work at [$256] per day when desired.

All cross-cuts in rooms shall be, per yard $1.12

All room turning shall be, per yard 1.12

The Company agrees to pay ten cents per ton for all coal coming from rooms over one hundred and fifty feet in length.

The price for Band Rock in the Spadra field, excepting roadways in entries, shall be as follows: For all Band Rock over four inches in thickness up to eight inches in thickness shall be two cents per ton per inch, all Band Rock eight inches in thickness up to and including sixteen inches in thickness shall be two and one-half cents per ton per inch, measurements to be made at the face in three different places.

The following prices for slopes and slope airways under normal conditions shall be:

Slopes, 8 feet wide, 5½ in height, per yard $6.00

Slope airways, 12 feet wide, per yard 2.86

All wet places shall be, per yard, 50 cents extra, and Company to take care of the water.

The price for building gob wall shall be, per yard $1.12½

Russellville.

Ten cents per ton less than the price paid Ovita.

Entry, Yardage, Etc.

Entry, yardage and deficient work will be 1903 rate.

1338 The same rules and customs defining deficient work in District 21 shall be in force during the life of this agreement.

Paris.

For mining hand-picked or forked coal free from slate, slack and other impurities, $1.05 per ton shall be paid.

Where draw slate or rock comes with coal the following prices shall be adopted:

For all over one inch and under five inches, five cents per ton extra; over five inches and less than ten inches, 9 cents per ton extra; over ten inches and less than fifteen inches, 14 cents per ton extra; over fifteen inches and less than twenty inches, 19 cents per ton extra.

Local Conditions.

The brushing price at Bonanza, Jenny Lind, Coal Hill and Denning shall be $1.40 for eighteen inches of brushing. Where the company requires more than eighteen inches to be brushed, they agree to pay eight cents per inch for each additional inch over the eighteen inches.

Draw slate in air courses will be paid as follows:

For three inches or over, 25 cents.

For six inches or over, 50 cents.

For nine inches or over, 75 cents.

For twelve inches or over, $1.00.

All coal in Arkansas two feet ten inches and less in height shall be considered deficient work, except where special price has been made.

Scale of prices to be paid for draw slate and rock at Bacje & Denman's mines at Burma and Montreal, No. 2:

Over four inches and up to eight inches, 56 cents per yard.

Over eight inches and up to 12 inches, 84 cents per yard.
1339 Over twelve inches to be settled locally. Brushing entries to be $1.41 per yard.

Where bottom is taken up in rooms and room necks it shall be paid 56 cents per yard. This applies to Backe & Denman's mines at Burma only.

All break-throughs in Arkansas, when required to cut through, to be paid at the 1903 rate.

Brushing bottom in entries, at Dallas mine, Burma, Ark., width of brushing to be four feet, height four feet six inches on top of rail. All over and above this height and width to be paid at the rate of seven cents per inch.

Air courses and rooms, four cents per inch for bottom brushing, width or roadway three feet.

Where miners at Coal Hill, No. 18 Jenny Lind, and Denning, Arkansas, have been pushing cars both ways the company shall assist the miner one way when necessary; and all miners in the Indian Territory who have been pushing their cars both ways shall receive for all coal pushed over 200 feet five cents per ton extra. The conditions that prevail at Lehigh apply to all mines on the Atoka Track to lowering cars down to the switch.

That the loading rate of the McCurtain machine scale be extended over those mines in Arkansas which now carry 62¢ per ton mine-run tonnage rate. Where punching machines are installed, in Arkansas, the McCurtain cutting rate to be adopted. Where chain machines are installed, in Arkansas, the rate for runners and helpers shall be established by the Commissioner and District President, and in case of their failure

to agree, the matter will be taken up in the matter provided for other controversies.

Inside Day Wage Scale.

1340	Track layers	$2.56
	Track layers' helpers	2.35
	Trappers	1.13
	Bottom Cagers	2.56
	Drivers	2.56
	Trip riders	2.56
	Pushers	2.56
	Water haulers and machine haulers	2.56
	All other inside day labor	2.36
	Spragging, coupling and greasing when done by boys	1.75
	Shot firers under normal conditions	3.00

The fire boss shall receive $3.04 per day and shall be subject to discharge by the management of the mine without appeal; if competent, shall be given other work.

The fire runner shall receive not less than $2.56 where such is employed.

Electric hoist operators:	Per day
For Boys	$2.00
Electric slope engineers	2.56
Motormen	2.56
Pump men (inside)	2.56
Head machinist	3.10
Machinists	2.75

"Boys" means those of maximum age of 19 years.

	Per day.
Day wages for digging coal	$2.81
Machine Runners	3.00
Machine helpers	2.75
Shaft sinkers	3.04

Outside Day Wage Scale.

1341	First Blacksmiths	$3.00
	Secoid blacksmiths	2.75
	Blacksmiths' helpers	2.36
	Carpenters	2.43

Provided that all carpenters now receiving more than $2.30 shall be advanced 5.9 per cent.

All other outside day labor $2.02½

Provided, that any class of outside day labor now receiving $1.91 or more a day shall be advanced 5.9 per cent. This provision only applies to outside labor not otherwise enumerated.

Scale for [Enginees].

Engineers, first class, 500 tons and over, per month..$79.00
Second-class, 300 to 500 tons, per month..... 73.00
Third-class, 300 tons or less, per month 65.00

Tail rope and slope engineers, 5-9/10 per cent above present wages.

The minimum rate for tail rope and slope engineers shall be $2.38 per day, or $62.00 per month; provided, further that the maximum rate for tail rope and slope engineers shall be $2.70 per day or $70.00 per month. Twenty-six days to constitute a month's work and nine hours to constitute a day's work. All over-time in excess of nine hours to be paid for at a proportionate rate per hour.

The mining prices inside [abd iytsude dat] wage scale (except engineers) provided for in this contract is based upon an eight-hour work day.

General Conditions.

There shall be two pay days a month and the operators shall issue to each employe a statement of his account, which
1342 the employe may retain. The dates of pay days shall be arranged between the respective companies and their employes.

Where air courses are driven in chute or platform work, that is, where the coal is in a greater pitch than twenty degrees, shall be considered as air course, and it shall be paid for at the regular district price, provided such air course or [brake-through] is cut or sheared before being shot.

The company shall put in all batteries, wing boards and platforms in all chute work in District No. 21.

The miners shall load their own coal in pitching veins in this district at the regular scale price.

No person employed under ground shall use an inferior grade of lard oil, and the use of any other except lard oil is prohibited. Rope riders in mine slopes are excepted.

The taking up of bottom for stub switching for chute rooms will be done by the miner and payment for same is referred to Local Union and mine officials for adjustment. In the event of their failure to agree, general resolutions to govern.

Where coal is screened before being weighed it shall be dumped on flat sheets and passed over the screen specified in the Pittsburg Agreement, and there shall be no obstruction on said screen.

When an employe leaves the employment of a company he shall receive all money due him within three days from date of notice. Settlement must be asked for between the hours of 8 a. m., and 6 p. m., on day settlement is due.

All company men shall receive an equal share of all work when competent to do such work.

The gas men shall place marks at last inside break-through, showing clearly whether there is any standing gas in
1343 working place. Should there be standing gas, he shall place gas mark at room neck in addition to mark at inside break-through; but should working place be clear, he shall place marks so indicating this at coal face. No miner shall be permitted to brush out gas.

Miners shall have the right to send out their dull tools on top of loaded cars and the company shall deliver same to blacksmith shop for sharpening, and no man be allowed to carry tools up or down shaft. In slopes the company shall deliver the same to parting or bottom. The company shall not be responsible for tools.

Any under ground employe not on hand to go down to work at the hour for commencing work, shall not be entitled to go below except at the convenience of the company.

When an employe is sick or injured he shall be given a cage at once. When a cage load of men come to the bottom of the shaft who have been prevented from working by reason of falls or other things over which they have no control, they shall be given a cage at once. For the [accomodation] of individual employes less than a cage load who have been prevented from working as above, cage will be run mid-forenoon, noon and mid-afternoon of each working day. Provided, however, that the foregoing shall not be permitted to enable men to leave their work for other than the reasons stated above.

The sinking of slopes and driving narrow work through faults shall be left to the Local Union and mine management for adjustment.

All double-shift places to be paid twenty-eight cents per yard extra.

All wet rooms, slopes, slope air courses and all other work connected with the slopes shall be left to Local Union
1344 and superintendent or manager for agreement of prices.

Frozen or seamy coal, stuck top or bottom, shall be deficient work, and shall be paid for extra, the same to be determined by mine committee and pit boss. If they fail to agree the miner shall be given an average place in the mine.

There shall be no deduction for school purposes except authorized by the individuals.

For the health and safety of the miners' lives, air courses shall be kept up with the entries as near as possible, and cross cuts shall be driven every forty feet; where gas exists, they shall be driven every thirty feet. No room shall be turned inside the last cross cut.

Scale price for blacksmithing miners' tools and machine mine tools:

Three-fourths of one per cent on gross earnings for blacksmithing of miners' tools, and three-eighths of one per cent on gross earnings for machine coal loaders' tools.

All sharpening and repairs of tools shall be done as promptly as possible.

The District President of the United Mine Workers of America, the Commissioner of the Southwestern Interstate Coal Operators' Association and the State Mine Inspector shall be a committee of three to determine at what places shotfirers shall be employed in Arkansas.

The present conditions in regard to double and single work shall prevail.

Any employe absenting himself from work two days and not reporting for work on the morning of the third day shall forfeit his right to his working place, unless excused by mine foreman, but shall be given another place on turn; pro-
1345 vided, however, this shall not apply in case of sickness.

When a fall occurs in any working place the company shall make preparations to clean up same within four hours from time of notice; failing to do so the miner or miners affected shall clean up same, company paying at the rate of $2.56 per shift.

Price for moving all draw slate and rock exceeding two inches in thickness, two and one-half cents per inch per running

yard for each five feet in width, and all over and above to be paid accordingly. This applies to all mines except where there is a special contract.

Where rooms are driven up narrow on account of bad top, the yardage shall be same as that in air courses, measurements to be made from the entry; and when room is widened out one-half room turning shall be paid. Where bottom is taken up entry yardage shall be paid. This does not apply in rooms that have been widened out, then narrowed up and re-necked, but in these cases the prices shall be the 1903 rate.

When a car leaves working place it is in charge of the company and average weight shall be paid for broken cars. Such cars shall be reported by the man that dumps the coal. The company shall keep all cars in good repair.

All coal four feet over where it comes down to under a thickness of three feet four inches shall be declared deficient work. This applies to Arkansas and the Indian Territory.

Where cars are delivered at working face all timber and rails shall be delivered there.

Where powder is taken into the mine in kegs it shall be delivered to the working place; otherwise it shall be handled according to the methods in vogue at the various mines.

When any employe shall be requested to fill the place of
1346 another employe, as specified herein, he shall receive the wages of the employe whose place he takes, plus 28 cents; provided, further, that it is [no] compulsory on any man who may not wish to take such place.

All questions that have been left to the President of the United Mine Workers of America, District 21 and Commissioner of the Operators' Association, or to arbitration shall became a part of this contract and be binding upon both parties when the same have both been decided and agreed upon by the said President and Commissioner, or by arbitration; and the operators shall furnish the District Secretary of the U. M. W. of A. and also post at the mines and prices to be paid on and after June 16, 1906, based hereon.

Color shall be no bar to employment.

Appendix.

Harnessing Mules.

In regard to taking the mules into the mine where the mules are kept on top of slope opening, the mules are to be taken to and from the stable to the mouth of the slope. In shaft openings the mules are to be taken down and up the shaft by the company, either by the drivers on the company's time, or by the company employing a man to do so; and it may employ any man, or number of men, it chooses, to do this work.

When mules are kept in the mine, if the mules are harnessed by the company, the driver must be at the pit bottom, or the parting where the commences work, ready to begin at starting time. If the driver harnesses the mules, he does so on the company's time.

In behalf of the Southwestern Interstate Coal Oper-
1347 ators' Association.

W. C. PERRY, President.
S. J. TONKIN, Secretary.

In behalf of the Miners.

PETE HANRATY,
Pres. Dist. No. 21.
S. F. BRACKNEY,
Sec. Dist. No. 21.

Correction.

On page twenty, the paragraph in regard to brushing, should read "at the rate of 50 cents for eight inches" instead of 47 cents.

1348 Q. When did the next conference of miners and operators meet? A. 1908.
Q. Where? A. Kansas City.
Q. Were you in that conference? A. I think so.
Q. You represented the plaintiffs in this case at that conference?
A. I think all of them probably by that time. Or, not all of them, but all that were operating mines.

Mr. Covington: I would like to have this marked as an exhibit.

(The document referred to was marked by the [stenographerer] Exhibit 10.)

Q. I hand you Defendants Exhibit 10, and will ask you to state what it is.

A. Joint interstate agreement and contract for District 21, for operators and miners, adopted Kansas City, Missouri, May 25, 1908, for period ending March 31, 1910; Southwest Interstate Coal Operators Association and United Mine Workers of America of Missouri, Kansas and Oklahoma.

Mr. Covington: I now offer this in evidence, the document marked Exhibit 10.

(The Defendants Exhibit No. 10 so offered in evidence is in words and figures following, to-wit:)

1349

Exhibit "10".

"Joint Interstate Agreement

of

Operators and Miners.

Adopted at Kansas City, Mo., May 25, 1908, for the Period Closing March 31, 1910.

General Conditions.

Arbitration.

Section 1.

1. Whereas, the benefits to be derived from an industrial contract depend altogether upon the fidelity with which it is carried into effect, and,

2. Whereas, it is our earnest and sincere desire that any agreement made and executed by and between the representatives of the miners in Districts 14, 21 and 25 and the representatives of the Southwestern Interstate Coal Operators' Association be observed and carried out in its entirety, and that all controversies arising under the contract shall be definitely settled;

3. It is Therefore Mutually Agreed, That in case of any local trouble arising at any time through a failure to agree between the foreman and any employe, the pit committee and the foreman are empowered to adjust it, and in case of their disagreement or failure to act within two days, it shall be immediately referred to the superintendent of the company and the District President of the U. M. W. of A. in whose district the controversy arose, or such person as either may designate to represent him, and should they fail

to agree it shall then be referred by either party to
1350 the Commissioner of the Southwestern Interstate Coal Operators' Association and the District President of the U. M. W. of A. in whose district the question arises, or such persons as they may designate for its adjustment.

4. In case there should be a disagreement between a District President and the Commissioner of the Southwestern Interstate Coal Operators' Association, the case shall be referred to the President of the Southwestern Coal Operators' Association and the International President United Mine Workers of America for a final decision or adjustment. In the event that the President of the Operators' Association and the International President of the United Mine Workers of America fail to agree, they shall have authority to select a person to decide the question in dispute, the mines to continue in operation.

All settlements and decisions rendered hereunder shall be [shall be] final and binding on all parties concerned, except where local decisions set aside the written terms of the joint agreement.

Eight Hour Day.

Section II.

1. For all classes of labor eight hours shall constitute a day's work. The going to and coming from the respective working places is to be done on the employe's own time. All company men shall perform whatever labor the foreman may direct. An eight hour day means eight hours work at the usual working places, exclusive of noon time, which shall be one-half hour for all classes of day labor. This shall be exclusive of the time required in reaching such working places in the morning and departing from the same
1351 at night. The operator may refuse to allow any day man to work on any day at which he fails to be at his working place at the starting time.

Penalties for Loading Impurities.

Section III.

1. In order to insure the production of clean and marketable coal, it is herein provided that if any miner or loader shall load with his coal sulphur, bone, slate, black-jack or other impurities, he shall for the first offense be notified by weighman and check-weighman on the miner's bulletin; for the second offense he may be suspended for one day or be

fined 50 cents; for the third and each subsequent offense occurring in any consecutive 30 days, he may be suspended for three days or fined $1.00; provided, if in any case it is shown that a miner or loader maliciously or knowingly loads impurities, he shall be subject to discharge.

2. It is further agreed that if any miner or loader has been fined, suspended or discharged, and claims that an injustice has been done him, the matter shall be taken up for investigation and adjusted in the manner provided for in Section I of this agreement.

3. It is further agreed that all moneys collected from fines, as provided for in the foregoing paragraphs of this Section, shall be deposited to the joint account of the Secretary-Treasurer of Districts 14, 21 and 25 of the U. M. W. of A., and the Secretary-Treasurer of the Southwestern Interstate Coal Operators' Association, and disposition of said fund shall be made on the joint account of said Secretary-Treasurers.

4. It shall be the duty of the pit committee and mine foreman at the end of each day's work to inspect the dirt
1352 loaded in coal during said day and render decisions hereunder.

Hiring, Discharging and time to be Paid for.

Section IV.

1. The management of the mine, the direction of the working force, and the right to hire and discharge are vested exclusively in the operator, and the U. M. W. of A. shall not abridge these rights. It is not the intention of this provision to encourage the discharge of employees or the refusal of employment to applicants because of personal prejudice or activity in matters affecting the U. M. W. of A. If any employe shall be discharged or suspended by the management and it is claimed that an injustice has been done him, an investigation, to be conducted by the parties and in the manner set forth in Section I, shall be taken up promptly and if it is proven that an injustice has been done, the management shall reinstate said employe and pay him full compensation for the time he has been suspended and out of employment.

2. In order that no disputes will arise, it is hereby agreed that the foregoing paragraph of this section shall be construed that day men shall receive the scale wage for the work at which they were employed when suspended, and miners $2.81 per day.

3. When the foreman, as provided for in Paragraph 1 of this Section, directs an employe to do labor, the [scalen] or wages being lower than his regular scale, he shall be paid the wage scale as paid for labor from which he was transferred, during time employed.

Suspension of Mining.

Section V.

1. In case of either local or general suspension of mining, either at the expiration of this contract or otherwise, the engineers shall not suspend work, but shall, when mining is suspended, fully protect all the company's property under their care, and operate fans and pumps and lower and hoist such men or supplies as may be required to protect the company's property, and any and all coal required to keep up steam at the company's coal plants. But it is understood and agreed that the operator will not ask them to hoist any coal produced by non-union labor for sale on the market. Should the interest of the engineers be directly involved in any issue at the expiration of this contract, and any engineers cease from work, the United Mine Workers of America will provide competent men to perform the emergency work above recited at the scale price in effect at the time of the suspension, subject to any subsequent settlement. The operator, at his option, to retain only such engineers as are required, but with the understanding that all of the engineers employed at the time of the suspension shall be entitled to an equal division of the work.

1353

Local Demands.

Section VI.

1. There shall be no demands made locally by either operators or employes which are in conflict with this agreement, or any District agreement, and there shall be no provisions imposed violating the same.

2. If any mine or any substantial part of a mine is laid idle or shut down in violation of this contract by any operator or any agent of any operator, such operator shall pay to the mine workers employed in said mine, who are thereby laid idle, the sum of one dollar per day for each of such mine workers for each day or part of a day which said mine is so laid idle, which sum shall be added to the regular pay account of each of said mine workers and be paid him with such regular account.

1354

3. If any mine or any substantial part of a mine is shut down or laid idle in violation of this contract by any local union, member or members of any local union, pit committee, check-weighman, or other or different officer or officers or committee of the U. M. W. of A., said operator may withhold for his or its own use from any fund checked off by him or it from the wages of the employes at said mine and otherwise payable by said operator to the officers of the local union having jurisdiction over the workmen at said mine, a sum equal to fifty cents per day per man for all the United Mine Workers who are so idle at said mine for each day or part of a day such mine or substantial part thereof is so shut down or laid idle.

4. Any question or disagreement as to any such shut down or the laying idle of any mine being in violation of this contract and the rights of the injured party to the indemnity or penalties hereby prescribed shall be determined and finally settled as other disagreements are provided to be settled, by Section 1 of this agreement. But no indemnity or penalty above provided shall be withheld or paid to the party entitled thereto until any disagreement concerning the same has been so finally determined.

Payment of Wages.

Section VII.

1. The operators agree to pay twice a month, the dates of payment to be left as at present; and these payments are to be made at the office nearest to the mine wherein or at which the employes are employed; provided, however, that
1355 this office shall be located not more than two miles from such mine.

2. Any employe wishing to leave the service of an operator shall, upon giving the mine foreman three days' notice of his intention to do so, receive all money due him within twenty-four hours after he has left the service of an operator; provided, that not more than ten per cent of the employes shall avail themselves of said right in any one week.

Check-Off.

Section VIII.

1. The operator will recognize the pit committee in the discharge of their duties as provided for in this agreement, and agree to check off all dues, assessments, fines and initiations from all miners and mine laborers when desired. In order to

protect the companies, the U. M. W. of A. agree when the companies so demand, to furnish a collective and continuous order authorizing the company to make such deductions. The companies agree to furnish the miners' local representatives a monthly statement, showing separately the amount of dues, assessments, fines and initiations collected. In case any fine is imposed, the propriety of which is questioned, the amount of such fine shall be held by the operator until the case is taken up and a dicision reached.

2. All deduction for dues, assessments, initiations and fines shall be made through the company office upon statement made by the check-weighman or a duly authorized representative of the local union. It is understood that powder, oil and smithing shall have prior claim, and not to exceed one-half of the regular initiation fee shall be collected in any one pay.

3. It is agreed that the miners may employ a check-
1356 weighman to see that coal is properly weighed and a correct record made thereof, and when such check-weighman is employed the companies shall furnish him a check number, and he shall credit to his number such portion of each miner's coal as he may be authorized to do by the local union.

Drivers.

Section IX.

1. Drivers shall take their mules to and from the stables, and the time required in so doing shall not include any part of the day's labor; their time beginning when they reach the change at which they receive empty cars—that is, the parting drivers at the shaft bottom and the inside drivers at the parting— and ending at the same places; but in no case shall a driver's time be docked while he is waiting for such cars at the points named. The inside drivers, at their option, may either walk to and from their parting or take with them, without compensation either loaded or empty cars to enable them to ride. This provision, however, shall not prevent the inside drivers from bringing to and taking from the bottom regular trips, if so directed by the mine foreman, provided such work is done within the eight hours.

2. When the stables are located outside the mine the companies agree to deliver the mules at the bottom of the shaft in the morning and relieve the drivers of the mules at the bottom of the shaft at night.

3. When the day men go into the mine in the morning they shall be entitled to two hours' pay whether or not the mine

works full two hours; but after the first two hours the men shall be paid for every hour thereafter, by the hour, for each hour's work or fractional part thereof. If, for any rea-
1357 son, the regular work cannot be furnished the inside day laborers for a portion of the first two hours, the operators shall furnish other than the regular labor for the unexpired time.

Equal Turn.

Section X.

1. The operator shall see that an equal turn is offered each miner and that he be given a fair chance to obtain the same. The check-weighman shall keep a turn-bulletin for the turn-keeper's guidance. The drivers shall be subject to whoever the mine manager shall designate as turn-keeper in pursuance hereof.

Measurements.

Section XI.

1. It is agreed that measurements of entries, brushing room turning and deadwork shall be made semi-monthly, and payment in full shall be made for such work in the same manner as other work is paid for.

Condition of the Mine.

Section XII.

1. The company shall keep the mine in as dry condition as practicable, by keeping the water off the road and out of the working places. When a miner has to leave his working place on account of water, through the neglect of the company, they shall employ said miner doing company work when practicable and provided that said miner is competent to do such work, or he, will be given another working place until such water is taken out of his place.

Doctor.

Section XIII.

1358 1. No deduction shall be made for doctors unless such deduction is authorized by the individual employe.

Provisions for Injured.

Section XIV.

1. The operator shall keep sufficient blankets, oil, bandages, etc., at each mine, and provide such suitable convey-

ance as is available to properly convey the injured persons to their homes after an accident.

Deaths and Funerals.

Section XV.

1. In the event of an instantaneous death by accident in the mine, employes shall have the privilege of discontinuing work for the remainder of that day only. Work, at the option of the operator, shall be resumed the day following and continue thereafter. In case the operator elects to operate the mine on the day of the funeral of the deceased, as above, or where death has resulted from an accident in the mine, individual employes may, at their option, absent themselves from work for the purpose of attending such funeral, but not otherwise. And whether attending such funeral, or not, each member of the U. M. W. of A. employed at the mine at which the deceased member was employed, shall contribute fifty (50) cents and the operator twenty-five dollars ($25) for the benefit of the family of the deceased or his legal representatives, to be collected through the office of the company. In the event that the mines are thrown idle on account of the employes' failure to report for work in the time intervening between the time of the accident and the funeral, or on the day of the funeral, then the company shall not be called upon for the payment of the twenty-five ($25) dollars above referred to.

1359 2. Except in cases of fatal accidents, as above, the mine shall in no case be thrown idle because of any death or funeral, but in the case of the death of any employe of the company or member of his family, any individual miner may, at his option, absent himself from work for the purpose of attending such funeral, but not otherwise.

Powder.

Section XVI.

1. The price of powder during the life of this contract shall be $2.00 per 25-lb. keg.

2. There shall be no other explosive than black powder used for shooting coal in the mines except upon the mutual consent of the pit boss and the mine committee who may allow the use of other explosives in entries and slopes or places regarded as deficient and faulty.

Railroad Cars at Mines.

Section XVII.

1. When an adequate number of empty railroad cars are at the mines at the starting time in the morning to work one-quarter day, and the opeartor has assurance from the railorad company that more cars will be placed at the mine before the empty cars already at the mine are loaded, then all employes shall go to work.

2. Whenever any operator may desire to mine and stock his coal, either in bins or on the ground, the employes shall go to work whether there are any empty railroad cars at the mine or not.

New Mines.

Section XVIII.

1. Where the development of a new mine is begun
1360 during the period covering by this agreement, scale of wages covering the labor at such new mine will be the same as in other mines in the neighborhood.

2. Where a mine is being developed in a new part of the field where new conditions are encountered, a scale of wages and rates will be made by the Commissioner for the operators and the District President for the miners.

Classes of Work.

Section XIX.

1. The erection of head frames, buildings, scales, machinery, railroad switches, etc., necessary for the completion of a plant to hoist coal, all being in the nature of construction work are to be excluded from the jurisdiction of the U. M. W. of A. Extensive repairs to and rebuilding of the same class of work, shall also be included in the same, provided that any or all members of the U. M. W. of A. who may be employed at such work shall not be asked to work in conflict with the terms of this agreement.

2. It is further agreed that the reloading of coal that has been mined and unloaded on the ground shall be exempt from the jurisdiction of the U. M. W. of A.

Duties of Pit Committee.

Section XX.

1. The duties of the pit committee shall be confined to the adjustment of disputes between the pit boss and any

member of the U. M. W. of A., working in and around the mines, arising out of this agreement or any District agreement made in connection therewith, when the pit boss and said miner or mine laborer have failed to agree.

2. In case of any local trouble arising in any mine
1361 through such failure to agree between the pit boss and any miner or mine laborer, the pit committee and the pit boss are empowered to adjust it, and in case of their disagreement it shall be referred to the superintendent of the company and the District President of the U. M. W. of A., or such person as he may designate to represent him; and should they fail to agree, it shall be referred to the Commissioner of the Southwestern Interstate Coal Operators' Association and the District President of the U. M. W. of A., for adjustment; and in all cases the mines, miners, mine laborers and parties involved must continue at work pending an investigation and adjustment, as provided for in Section I.

3. If any day men refuse to continue at work because of a grievance which has or has not been taken up for adjustment in the manner provided herein, and such action shall seem likely to impede the operation of the mine, the pit committee shall immediately furnish a man or men to take such vacant place or places at the scale rate, in order that the mine may continue at work, and it shall be the duty of any member or members of the United Mine Workers who may be called upon by the pit boss or pit committee to immediately take the place or places assigned to him or them in pursuance thereof. Provided that this paragraph shall not prevent the enforcement of the other penalties herein provided for.

4. The pit committee, in the discharge of its duties, shall under no circumstances go around the mine for any cause whatever, unless called upon by the pit boss or by a miner or company man who may have a grievance that he cannot settle with the boss. Any pit committeemtn who shall attempt to execute any local rule of [proveeding] in con-
1362 fiict with any provision of this contract, or any other made in pursuance hereof shall be forthwith deposed as committeeman. The foregoing shall not be construed to prohibit the pit committee from looking after the matter of membership dues and initiations in any proper manner. The pit committeemen shall be elected to serve for one year unless deposed for cause.

5. Members of the pit committee employed as day men shall not leave their places of duty during working hours except by permission of the operator, or in cases involving the stoppage of the mine.

Section XXI.

1. This contract shall continue in full force until the expiration of two years from March 31, 1908.

Obligations.

Section XXII.

1. All the provisions and terms of this contract are hereby mutually agreed to by and between all the operators members of the Southwestern Interstate Coal Operators' Association and all the miners of Districts 14, 21, and 25, and are signed by the representatives of the parties hereto who have been duly authorized to execute the same on behalf of the Southwestern Coal Operators' Association and on behalf of Districts 14, 21 and 25 of the U. M. W. of A. respectively.

2. That the next Intertsate joint conference meet in Kansas City, Mo., not later than March 1, 1910, and earlier if meeting can be arranged by Presidents of Districts 14, 21 and 25 U. M. W. of A. and President, Secretary and Commissioner of the Southwestern Interstate Coal Operators' Association.

In behalf of the Southwestern Interstate Coal Operators' Association.

1363 JAMES ELLIOTT,
President
CHAS. S. KEITH,
Vice-Prest.-at-Large.
J. H. HIBBEN,
Secretary.

In behalf of the Miners.

P. R. STEWART,
President Dist. No. 21
GEO. COLVILLE,
President Dist. No. 25
ALEX HOWAT,
President Dist. No. 14.

Contract
for
District No. 21.
U. M. W. of A.

Adopted at Kansas City, Mo., May 25, 1908.

For Period ending March 31, 1910.

Prices for Mining in Oklahoma.

1. Colgate, Edwardsville, Brewerville, Baker, Krebs No. 11, No. 5 and 7, Buck No. 6, Hartshorne, Haileyville, Gowen, Wilburton, Lutie, Turkey, Creek, Witteville, Savanna, Adamson and Red Ooak, per ton for mine run coal, 72 cents.

2. Alderson, Krebs No. 8, Carbon, Bache, Craig and Dow, per ton for mine run coal 77 1/2 cents. The mining rate at Dow shall be 77 1/2 cents per ton in all room
1364 work, except in rooms that are widened out on one side and the track carried up on one rib. In this case the mining rate shall be 82 1/2 cents per ton. [Tjis] system of widening the rooms out on one side, however shall be optional with the operator.

3. Lehigh, for screened coal, 90 cents. Mine run, 72 cents per ton.

4. Bolen-Darnall, McAlester mines, per ton, hand picked coal, $1.00. Mine run, 72 cents per ton.

5. Samples, McAlester mines, per ton, hand picked coal $1.00. Mine run 72 cents per ton.

6. All entry, yardage and deficient work shall be paid 1906 rate, and the same rules and customs then existing in District 21 shall be continued in force during the life of this agreement.

7. In rooms, [rook] necks and cross cuts at Midway, the price shall be 80 cents per ton mine run coal. Coal mined in entries and air courses the price shall be 74 cents per ton mine run. The price per ton at Midway shall cover all bottom taken up and the removal of the top bony.

8. All yardage, entry and dead work at Midway, also the inside and outside day wage scale, to be paid 1905 rate.

9. For taking up bottom at the Colgate Company's mine, the following prices shall be paid: Where prevailing height is required, 7 cents per inch for each inch when coal is less than four feet in thickness. This does not include all

bottom, but only that representing the difference between the actual thickness of the coal and four feet.

10. The price for yardage and dead work at No. 7 Krebs shall be as follows:

Where coal is three feet eight inches and under, same
1365 rates will be paid as No. 8 Krebs. Where coal is over three feet eight inches, same price will be paid as at No. 11 Krebs.

11. Prices on yardage and dead work paid 1906 rate. Room cross-cuts will be paid the same as air courses where they are cut.

Scale of Prices on Cross-Bars, Dirt and Deficient Narrow Work in Room Necks at the Mines on Atoka Track, Excepting Midway.

12. Setting cross-bars, 33 cents, eight foot bar. Loading dirt in cars 27 cents per car. Air course yardage in rooms turned off the entry where top will not allow widening out. Where bottom is required to be taken up, entry prices shall be paid. One-half room turning price to be paid for widening out. Measurements to begin at entry and end at point of widening out.

13. Prices on clod at Bolen-Darnall and Samples' mines shall be paid for in accord with decision of district president and commissioner.

14. All break-throughs in Oklahoma shall be driven from six to eight feet wide, and paid for at 1906 rate. Measurement to be made from lower rib.

15. The prices now in force at Wilburton to be as follows:

Scale of prices governing yardage at mines of the Great Western Coal & Coke Company, at Wilburton, Okla.:

For loading dirt and rock where same cannot be gobbed, 30 cents per car.

For entry work where brushing is not required, 2.25 per yard.

1366 Where brushing is required it shall be paid for at the rate of 50 cents for eight inches or 6¼ cents per inch.

Air courses shall be paid for at rate of $1.80 per yard.

Bottom brushing shall be paid for at rate of 50 cents per yard, where it is taken up, for turning rooms.

The price of setting cross bars shall be 28 cents per bar under same conditions which have existed during past year.

All coal in Oklahoma under two feet ten inches on the 77½ cent rate to be declared deficient.

At Witteville the price for entry shall be $2.70 per yard, brushing included; for air course, $1.90 per yard.

All coal under four feet in height in Oklahoma where bottom brushing has not been paid for in rooms, it shall be paid for at 2¼ cents per inch per yard to make the required height; and in Arkansas the same price and prevailing conditions shall apply to digging bottom in rooms.

Savannah Scale.

1 That the miners shall do all work ordinarily done in room work without additional compensation, with the exception of that which is already being paid, viz: Battery and wing Boards.

2. That the miners shall carry a Twelve (12) foot battery in each and every room, but shall have the privilege of drawing the battery four (4) feet below the lower rib of the cross cut or break through, after cross cut or break through has been finished.

3. That the cross cuts or break throughs shall be made and driven as directed by the mine foreman or superintendent, and shall be paid for and driven as per the Kansas City Agreement, viz: ($1.81 per yard).

1367 4. That all coal shall be loaded by the miners and paid for at the rate of Seventy-two (72) cents per ton mine run coal.

5. The miner shall keep his working place well timbered, and the traveling ways on both sides of the battery open.

6. In case a miner desires to leave the service of the company, and his place is in good working condition, the company will purchase the coal in the battery and shall pay for the same at the rate of One Dollar and Fifty-five cents ($1.55 per running yard, and the same shall be deducted from the next miner taking the room. This is in case the battery is twelve(12) feet wide.

Sutter And Witteville No. 4.

1. The mining price at Sutter, Oklahoma, and Mine No. 4, Witteville, shall be ninety-five cents per ton for coal screened over the standard diamond top screen of following di-

mensions: Width, six feet; length, twelve feet; space between bars to be 1⅛ inch. The mine run price shall be 72 cents per ton. Room turning to be $5.62½.

2. All entry, yardage and dead work to be 1906 rate.

3. All refuse matter thrown into gob shall not be loaded unless same shall be paid for. Rate of payment on such work to be agreed on by the company's representative and the pit committee. All coal shall be loaded the same as run mine coal in the Pittsburg Agreement, namely, every precaution shall be used to prevent the loading of dirt. The rule adopted by the Pittsburg Conference for the loading of impurities apply to Sutter and Witeville No. 4 to impurities passed through the screen, but to impurities passed
1368 over the screen, except where a miner does not use due caution or maliciously loads impurities.

4. Howe, Oklahoma, shall be included in Scale District No. 2. The question of bottom brushing at Howe shall be referred to a committee of miners and operators, and their decision shall become a part of this agreement.

5. McCurtain shall be included in Scale District No. 2.

6. The prices for yardage at mines No. 1, 2 and 3 shall be as follows:

Entries, per yard	$2.25
Air courses, per yard	2.25
Cross Cuts, per yard	1.68¾
Room turning	3.37½

Machine Scale For Henryetta, Okla.

1. Loading, fifty (50) cents per ton; this price to include shooting down the coal, laying on track, timbering and taking care of the rooms, and pushing the car both ways from the entry switch to the face and return. When one man cannot push loaded car, driver or pusher to assist loader in pushing the loaded car from the face to the switch.

2. Cutting, fifteen (15) cents per ton, to be divided, three-fifths to cutter and two-fifths to the helper or, otherwise, as they may agree between themselves.

3. These prices to cover all work in the mines.

Machine Scale For Oklahoma.

1. Loaders for chain machines are to receive forty-five cents per ton in all classes of working places.

2. Runners are to recive 5 cents per ton.

1369 Helpers are to receive 4½ cents per ton.

4. Or, runners are to receive $3.00 per day and helpers $2.75 per day, at the option of the company.

5. Loaders are to do all work now done by pick mines except cutting of coal; this includees taking up of the same amount of bottom under same conditions as applies to pick mines and furnish their own powder.

Q. Day wage scale for loading after chain machines shall be $2.56. No loader will be employed on day wage scale where it is practicable to employ them on tonnage rate.

McCurtain Punching Machine Scale.

1. Cutting in rooms and room break-throughs shall be 12½ cents per ton mine run, to be divided three-fifths to cutter and two-fifths to helper.

2. Cutting in entries and all other narrow work except room break-throughs shall be sixteen and one-half cents, divided three-fifths and two-fifths as above. No yardage.

3. Loaders in rooms (including room break-throughs) shall receive forty cents per ton mine run; loaders to furnish powder and do all work ordinarily done by pick miners in rooms, except cutting.

4. Loaders in entries and all other narrow work (except room break-throughs), shall receive forty-five cents per ton. No yardage. Loaders to furnish powder and do all work ordinarily done by pick mineres in entry work except cutting.

Prices For Mining In Arkansas, At coal Hill, Alix, Denning, Bonanza, Jenny Lind, Greenwood, Excelsior, Hacket City, Montreal, Burma, Midland City, Huntington, Hartford And Bates.

1370 1. All coal in Arkansas, at the option of the operator, to be mined and paid for on a sliding scale in proportion to the percentage, or weight, of lump coal contained in the whole, based on the present prices and size of screens where such are established.

2. The price for mine run coal per ton shall be 62 cents.

3. For screened coal, per ton, 90 cents.

4. The operators are to have the option of paying on a screened coal or mine run basis. When the coal is mined on

a screened coal basis, the screens used shall be not more than six feet wide, have bars not more than sixteen feet long, and a 1¼ inch space between the bars.

Williams, Howe, Panama, Bokoshe and McCurtain shall be included in Arkansas field.

Ouita.

1. For hand-picked coal, free from slack, slate, sulphur, bony and black jack, the price shall be as follows:

From the first of September to the first of March, $1.22.

From the first of March to the 31st of August, $1.07.

Spadra.

1. For screened coal per ton, from the first of September to the first of March, $1.02.

2. From the first of March to the 31st of August, 92 cents.

3. For mine run, per ton, 87½ cents.

For all coal under three feet in height, for each three inches less of coal, shall be 5 cents per ton additional to above prices.

1371 5. The price for narrow work shall be as follows:

20 feet gob entries or air courses, per yard $1.12½.

18 feet gob entries or air courses, per yard $1.25.

16 feet gob entries or air courses, per yard $1.50.

12 feet gob entries or air courses, per yard $1.75.

8 feet entries or air courses, per yard $2.00.

All brushing, 16 inches, per yard $1.12½.

And all over 16 inches, 7 cents for each inch extra.

The company shall have the right to do all brushing by shift work at $2.56 per day, when desired.

All cross-cuts in rooms shall be, per yard $1.12½.

All room turning shall be, per yard $1.12½.

The company agrees to pay ten cents per ton for all coal coming from rooms over one hundred and fifty feet in length.

The price for Band Rock in the Spadra field, excepting roadways in entries, shall be as follows:

For all Band Rock over four inches in thickness up to eight inches in thickness shall be two cents per ton per inch, all Band Rock eight inches in thickness up to and including sixteen inches in thickness shall be two and one-half cents per ton per inch, measurements to be made at the face of three different places.

The following prices for slopes and slope air-ways under normal conditions shall be: Slope, 8 feet wide, 5½ feet in height, per yard $6.00.

Slope airways, 12 feet wide, per yard $2.86.

All wet places shall be, per yard, 50 cents extra, and company to take care of the water.

1372 The price for building gob wall shall be, per yard, $1.12½.

Russelville.

1. Ten cents per ton less than the price paid at Ouita.

Entry, Yardage, Etc.

1. Entry, yardage and deficient work will be 1906 rate. The same rules and customs defining deficient work in Russellville shall be in force during the life of this agreement.

Paris.

1. For mining hand-picked or forked coal free from slate, slack and other impurities, $1.05 per ton shall be paid.

2. Where draw slate or rock comes with coal the following prices shall be adopted.

For all over one inch and under five inches, five cents per ton extra; over five inches and less than ten inches, 9 cents per ton extra; over ten inches and less than fifteen inches, 14 cents per ton extra; over fifteen inches and less than twenty inches, 19 cents per ton extra.

Local Conditions.

1. The brushing price at Bonanza, Jenny Lind, Coal Hill and Denning shall be $1.40 for eighteen inches of brushing. Where the company requires more than eighteen inches to be brushed, they agree to pay eight cents per inch for each additional inch over the eighteen inches.

2. Draw slate in air courses will be paid as follows:

For three inches or over, 25 cents.

For six inches or over, 50 cents.

For nine inches or over, 75 cents.

For twelve inches or over, $1.00.

1373 3. All coal in Arkansas two feet, ten inches and less in height shall be considered deficient work, except where special price has been made.

All coal at Bonanza three feet and under shall be considered deficient work.

4. Scale of prices to be paid for draw slate and rock at Bache & Denman's mines at Burma and Montreal No. 2.

Over four inches and up to eight inches, 56 cents per yard. Over eight inches and up to 12 inches, 84 cents per yard. Over twelve inches, to be settled locally. Brushing entries to be $1.41 per yard.

5. Where bottom is taken up in rooms and room necks, it shall be paid 56 cents per yard. This applies to Bache & Denman's mines at Burma only.

6. All break-throughs in Arkansas, when required to cut through, to be paid at the 1906 rate.

7. Brusshing bottom in entries, at Dallas mine, Burma, Ark., width of brushing to be four feet height, four feet six inches on top of rail. All over and above this height and width to be pair at the rate of seven cents per inch.

8. Air courses and rooms, four cents per inch for bottom brushing, width of roadway three feet.

9. Where miners at Coal Hill, No. 18 Jenny Lind, and Denning, Arkansas, have been pushing cars both ways the company shall assist the miner one way when necessary; and all miners in Oklahoma who have been pushing cars both ways shall receive for all coal pushed over 20 feet, five cents per ton extra. The conditions that prevail at Lehigh apply to all mines on the Atoka Track in regard to lowering cars down to the switch.

1374 10. [Tjat] the loading rate of the McCurtain machine scale be extended over those mines in Arkansas which now carry 62 cents per ton mine run tonnage rate. Where punching machines are installed, in Arkansas, the McCurtain cutting rate to be adopted. Where chain machines are installed, in Arkansas, the rate for runners and helpers shall be established by the Commissioner and District President, and in case of their failure to agree, the matter will be taken up in the manner provided for other controversies.

Shot Firing at Denning and Coal Hill.

1. The unsettled shot firing controversy at Denning, Ark., shall be adjusted in the following manner:

That one miner and one operator be selected at this [onference] by Mr. Stewart and Mr. Brown, the two persons so selected shall within fifteen (15) days select a third person from among the mine inspectors of Iowa or Illinois, and they shall make an inspection of the mines at Denning, Ark., and render a decision within thirty days from the signing of this contract.

Inside Day Wage Scale.

Timbermen	$2.56
Track layers	2.56
Track Layers' helpers	2.36
Trappers	1.13
Bottom cagers	2.56
Drivers	2.56
Trip riders	2.56
Pushers	2.56
Water haulers and machine haulers	2.56
1375 All other inside day labor	$2.35
Spragging, coupling and greasing, when done by boys	1.75
Shot firers, under normal conditions	3.00

The fire boss shall receive $3.04 per day, and shall be subject to discharge by the management of the mine without appeal; if competent shall be given other work.

The fire runner shall receive not less than $2.56 where such is employed.

Electric hoist operators:	Per day.
For boys	$2.00
Electric slope engineers	2.56
Motormen	2.56
Pumpmen (inside)	2.56
Head machinist	3.10
Machinists	2.75
"Boys" means those of maximum age of 19 years.	
Day wages for digging coal	2.81
Machine runners	3.00
Machine helpers	2.75
Shaft sinkers	3.04

Outside Day Wage Scale.

First blacksmiths	3.00
Second blacksmiths	2.75
Blacksmiths' helpers	2.36
Carpenters	2.43
All other outside day labor	2.02½

1376 Scale for Engineers.

Engineers, first class, 500 tons and over, per month	$79.00
Second class, 300 to 500 tons, per month	73.00
Third class, 300 tons or less, per month	65.00

The minimum rate for [tall] rope and slope engineers shall be $2.38 per day, or $62.00 per month; provided, further that the maximum rate for [tall] rope and slope engineers shall be $2.70 per day, or $70.00 per month. Twenty-six days to constitute a month's work and nine hours to constitute a day's work. All over-time in excess of nine hours to be paid for at a proportionate rate per hour.

The mining prices, inside and outside day wage scale (except engineers), provided for in this contract, are based upon an eight-hour work day.

General Conditions.

1. It is agreed to renew the contract expiring March 31st, 1908, for District 21, except where local and district provisions and conditions already agreed to by miners and operators conflict with the general interstate provisions that may be agreed to by miners and operators at this conference. All joint decisions made in connection with the aforesaid agreement are confirmed.

2. Where air courses are driven in chute or platform work, shall be considered as air courses and shall be paid for at the regular district price, provided such air courses or breakthroughs are cut or sheared before being shot.

3. The company shall put in all batteries, wing boards and platforms in all chute work in District No. 21.

1377 4. The miners shall load their own coal in pitching veins in this district at the regular scale price.

5. No person employed under ground shall use an inferior grade of lard oil, and the use of any other except lard oil is prohibited. Rope riders in mine slopes are excepted.

6. The taking up of bottom for stub switches for chute rooms will be done by the miner, and payment for same is referred to Local Union and mine officials for adjustment. In the event of their failure to agree, general resolutions to govern.

7. Where coal is screened before being weighed it shall be dumped on flat sheets and passed over the screen specified in the Pittsburg Agreement, and there shall be no obstruction on said screen.

8. All company men shall receive an equal share of all work when competent to do such work.

9. The gas men shall place marks at [last] inside break-through, showing clearly whether there is any standing gas in working place. Should there be standing gas, he shall place gas mark at room neck in addition to mark at inside break-through; but should working place be clear, he shall place marks so indicating this at coal face. No miner shall be permitted to brush out gas.

10. Miners shall have the right to send out their dull tools on top of loaded cars and the company shall deliver same to blacksmith shop for sharpening, and no man be allowed to carry tools up or down shaft. In slopes the company shall deliver the same to parting or bottom. The company shall not be responsible for tools.

11. Any under ground employe not on hand to go down to work at the hour for commencing work, shall not be
1378 entitled to go below except at the convenience of the company.

12. When an employe is sick or injured he shall be given a cage at once. When a cage load of men come to the bottom of the shaft, who have been preventd from working by reason of falls or other things over which they have no control, they shall be given a cage at once. For the accommodation of individual employes less than a cage load who have been prevented from working as above, cage will be run mid-forenoon, noon and mid-afternoon, of each working day. Provided, however, that the foregoing shall not be permitted to enable men to leave their work for other than the reasons stated above.

13. The sinking of slopes and driving narrow work through faults shall be left to Local Union and mine management for adjustment.

14. All double shift places to be paid twenty-eight cents per yard extra.

15. All wet entries, rooms, slopes, slope air courses and all other work connected with the slopes shall be left to Local Union and superintendent or manager for agreement of price.

16. Frozen or seamy coal, stuck top or bottom, shall be deficient work, and shall be paid for extra, the same to be determined by mine committee and pit boss. If they fail to agree the miner shall be given an average place in the mine.

17. There shall be no deduction for school purposes except authorized by the individuals.

18. For the health and safety of the miners' lives, air courses shall be kept up with the entries as near as possible, and cross-cuts shall be driven every forty feet; where gas exists, they shall be driven every thirty feet. No room
1379 shall be turned inside the [lass] cross-cut.

Scale Price for Blacksmithing Miners' Tools and Machine Mine Tools.

1. Three-fourths of one per cent on gross earnings, for blacksmithing of miners' tools, and [three-eights] of one per cent on gross earnings for machine coal loaders' tools.

2. All sharpening and repairs of tools shall be done as promptly as possible.

The present conditions in regard to double and single work shall prevail.

Any employe absenting himself from work two days, and not reporting for work on the morning of the third day, shall forfeit his right to his working place, unless excused by mine foreman(but shall be given another place on turn; provided. however, this shall not apply in case of sickness.

Where a fall occurs in any working place the company shall make preparations to clean up same within four hours from time of notice; failing to do so the miner or miners affected shall clean up same, company paying at the rate of $2.56 per shift.

Price for moving all draw slate and rock exceeding two inches in thickness, two and one-half cents per inch per running yard for each five feet in width, and all over and above to be paid accordingly. This applies to all mines except where there is a special contract.

Where rooms are driven up narrow on account of bad top, the yardage shall be same as that in air courses, measurements to be made from the entry; and when room is widened out one-half room turning shall be paid. Where bottom is taken up entry yardage shall be paid. This does not apply in 1380 rooms that have been widened out, then narrowed up and re-necked, but in these cases the prices shall be 1906 rate.

When a car leaves working place it is in charge of the company, and average weight shall be paid for broken cars. Such cars shall be reported by the man that dumps the coal. The company shall keep all cars in good repair.

All coal four feet and over where it comes down to under a thickness of three feet four inches, shall be declared deficient work. This applies to Arkansas and Oklahoma.

Where cars are delivered at working face, all timber and rails shall be delivered there.

Where powder is taken into the mine in kegs it shall be delivered to the working place; otherwise it shall be handled according to the methods in vogue at the various mines.

When any employe shall be requested to fill the place of another employe, as specified herein, he shall receive the wages of the employe whose place he takes, plus 28 cents; provided, further, that it is not compulsory on any man who may not wish to take such place.

The District President of the U. M. W. of A., the Commissioner of the Southwestern Interstate Coal Operators' Association, and the State Mine Inspector shall be a committee of three to determine at what places shot firers shall be employed in Arkansas.

In behalf of the Southwestern Interstate Coal Operators' Convention:

JAMES ELLIOTT, President.
CHAS. S. KEITH, Vice-Prest. at Large.
J. H. HIBBEN, Secretary.

In behalf of the Miners:

P. R. STEWART,
President District No. 21.
FRED W. HOLT,
Secretary District No. 21.

1381 Q. Mr. Bache, did you know of the competitive conditions that existed, as related by you on last Friday and Saturday, in your examination-in-chief?

A. I knew more in 1908 than I did in 1906, I have no doubt.

Q. Did you meet in the conference in 1910?

A. In part of it, yes.

Q. The plaintiff companies were represented by you at the joint conference of miners and operators in Kansas City in 1910, were they?

A. Those of them that were operating coal mines at that time.

Q. What ones were operating?

A. The Prairie Creek Coal Mining Company, the Mammoth Vein Coal Company, the Coronado Coal Company, the Hartford Coal Company, and I think that is all.

Q. Did that conference reach an agreement? A. It did.

Q. When? A. After I was out of it.

Q. After you were out of it? A. Yes, sir.

Q. When did you get out of it? A. In August, 1914.

Q. August, 1914? A. Yes, sir.

Q. What was the occasion of you getting out of the Association?

A. I signed up a contract with the miners for the companies that I represented without waiting for the association to sign up a contract.

Q. Did you sign this contract while you were then negotiating a general interstate agreement? Did you sign a private contract with the miners of District 21?

A. Not until after I resigned.

Q. Did you not sign it before, and in the night time?

A. No, sir.

Q. And go down the next morning and go into the con-
1382 operators, and they then challenged your right to set there, because you had gone out and made a private contract without their knowledge? A. No, sir.

Q. And did they not finally tell you to be searched for a copy of the contract you then had on you? A. No, sir.

Q. You did make a contract?

A. I did make a contract, but not before I resigned.

Q. You did not? When did you resign?

A. I resigned on the morning of the day I made the contract.

Q. What day was that? A. Sometime in August 1914.

Q. Is this your signature? A. Yes, sir.

Q. Is that the contract you entered into?

A. It looks like it.

Q. Take it and say whether or not that is the contract you signed.

The Court: Let it be indentified.

(The paper referred to was marked by the stenographer for identification Exhibit 11.)

Q. I now hand you Exhibit 11, and ask you what it is.
A. It is a contract dated August 10th, 1910, between the Mammoth Vein Coal Company, the Kali-Inla Coal Company, the Bache-Denman Coal Company, the Hartford Coal Company, and the Coronado Coal Company, parties of the first part, and the United Mine Workers of America, parties of the second part.
Q. Who signed on the part of the coal company?
A. I did.
Q. In what capacity? A. President.
Q. Who signed on behalf of the coal miners association?
A. P. R. Stewart, District 21, James Mullin and Edward Cunningham.
1383 Q. Were they present at the time that you entered into that agreement?
A. Yes, sir, they were present when I signed it.
Q. I mean when you signed it, but were they present when you and Pete Stewart reached the agreement, Mr. Bache?
A. The only person present that night before, when I was talking to Stewart about it was Stewart.

Mr. Drinker: May I ask what year that contract was dated?

Mr. Covington: The 10th of August, 1910.

Q. This covers a period up to 1912? A. Yes, sir, August.

Mr. Covington: I now wish to offer in evidence Defendants Exhibit 11.

(The Defendants Exhibit No. 11, so offered in evidence, is in words and figures following, to-wit:)

"This agreement entered into this 10th day of August, 1910, by and between the Mammoth Vein Coal Company, Kali-Inla Coal Company, Bache & Denman Coal Company, The Hartford Coal Company, The Prairie Creek Coal Mining Company and the Coronado Coal Company, parties of the first part, and the United Mine Workers of America, party of the second part, Witnesseth:

That it is agreed by and between the parties hereto, that the parties of the first part shall pay the same scale of wages

under the same conditions of labor up to March 31, 1912, as they paid at their respective mines during the period of two years ending March 31, 1910, with the following exceptions, to-wit:

(a) The price for mining shall be advanced three (3) cents a ton for mine run coal, and five (5) cents a ton for lump coal.

(b) The prices for day labor shall be advanced five and fifty-five hundredths (5.55) per cent.

(c) The price for yardage and dead work shall be ad-
1384 vanced five and fifty-five hundredths (5.55) per cent.

(d) After such time as the Central Coal & Coke Company and the United Mine Workers of America reach an agreement, the operators shall have the right to work two men in each room of the mines above mentioned, viz: Prairie Creek Mines Nos. three (3) and four (4) and Mammoth Vein No. One (1) if the Central Coal & Coke company work two men in any of the rooms in any of its mines near Huntington.

(e) Bone coal, when it appears in any of the mines, except Coronado, of the above coal companies, parties hereto, in Arkansas, shall be paid for at the rate of two (2) cents per ton for coal produced from any working place in which the bone coal may, at the time of production of such coal, exceed te ninches in thickness, otherwise bone coal coal not be paid for. At Coronado same rate as at Huntington. Back pay for bone coal shall be made for two months on the basis hereto agreed.

(f) In the event of a settlement being reached between the United Mine Workers and the Central Coal & Coke Company or the Rock Island Coal Mining Company, providing any different scale of wages or conditions than set forth above, the companies parties hereto shall have the right to put any of such prices or conditions into effect at its mines located in the same fields, as the companies hereto may see fit.

(g) In the event of an agreement being entered into by the Southwestern Interstate Coal Operators Association and the United Mine Workers of America, the companies hereto shall have the right, at their option, to participate therein, if the said South western Interstate Coal Operators Association shall be willing, in which events this contract shall be cancelled.

(h) If any arbitration agreement be entered into be-
1385 tween the Southwestern Interstate Coal Operators Association and the United Mine Workers of America, or between any operator in District 21, and the United Mine Workers of America, then the companies hereto shall have the right, at their option, to put in effect for the settlement of any disputes that may arise between themselves and their employes or the United Mine Workers of America, the same clause, or one similar to it, with the names of the parties changed to suit the facts.

Witness our hands and seal.

MAMMOTH VEIN COAL COMPANY
By F. Bache, President.

KALI-INLA COAL COMPANY
By F. Bache, President.

BACHE & DENMAN COAL COMPANY
By F. Bache, President.

HARTFORD COAL COMPANY
By F. Bache, President.

PRAIRIE CREEK COAL MINING COMPANY
By F. Bache, President.

UNITED MINE WORKERS OF AMERICA
By P. R. Stewart, President.

JAMES MULLON.
EDW. CUNNINGHAM."

Q. Did you know at the time that you entered into that agreement of the competitive conditions that you testified here to in your direct examination last Friday and Saturday morning?

A. To a large extent, yes.

Q. You stated in your direct examination, I believe it was Friday last, that you were discharged from the operators association. What was that for?

1386 A. For signing this contract.

Q. Because you signed the contract? A. I suppose that was the reason, I don't think I was ever told what the reason was, but I don't doubt that was it.

Q. How long were the mines closed down on account of this contract? A. You mean how long the contract existed from the expiration of the old contract until we went to work?

Q. Yes. A. April, May, June, July and part of August,

Q. When you agreed upon the terms of this contract as president of these plaintiffs companies, as their representatives, with P. R. Stewart, your association, which you are a member of, had no knowledge whatever that you were out making a private agreement, did they?

A. I understand that they did.

Q. They found it out the next day, did they, Mr. Bache?

A. I understood that they had been informed by Mr. Stewart.

Q. When did you— did you ever go back into the Association, and when I say you I mean the plaintiff companies did you ever carry them back into the Southwest Coal Operators Association?

A. Yes, sir, we went back in 1912.

Q. In 1912, you operated under this private agreement during 1910 and 1912, up to the making of the 1912 contract.

A. During 1910 and '11, and part of 1912.

Q. What month in 1912?

A. January, February and March, I would be sure of.

Q. Was it the 8th of April, 1912, that you re-entered the Association? A. Is that right?

Q. Or, these plaintiff companies? After you re-entered the Southwest Interstate Coal Operators Association,

1387 was there any other contract made in that year, 1912?

A. Between the Operators Association and the miners?

Q. Yes. A. Yes.

Q. Were you a member of that conference?

A. I was not at that conference, no, sir.

Q. Who represented the plaintiff companies at that conference?

A. Mr. Sweeney and Mr. Denman.

Q. I hand you paper marked Defendants Exhibit 12, and will ask you what it is.

A. Joint Interstate Agreement contract for District 21, operators and miners adopted at Kansas City, Missouri, May 29, 1912, for a period ending July 31, 1914; Southwest Interstate Coal Operators Association and United Mine Workers of America for District No. 21.

Q. Is that the contract under which the plaintiffs here were operating at the time you went on the open shop plan? At the time the Mammoth Vein Coal Company began operating on an open shop plan at No. 4.

A. The plaintiff companies were not operating at that time. The plaintiff companies were shut down, except the

Mammoth Vein Coal Mining Company, which was not a party to that contract.

Q. What company is not a party?

A. The Mammoth Vein Coal Mining Company.

Mr. Covington: I now wish to offer in evidence Exhibit 12.

(Paper so offered in evidence marked Exhibit 12, is in words and figures following, to-wit:)

"Exhibit No. 12.

Joint Inter-state

Agreement.

1388 For District No. 21
of
Operators
And Miners

Adopted at Kansas City, Mo.,
May 29, 1912, for Period
Ending July 31, 1914.

The Southwestern Interstate Coal Operators' Association,
The United Mine Workers of America for District
Number 21.

Joint
Interstate
Agreement
Of
Operators And Miners

Adopted at Kansas City, Mo. May 29,
1912, for the Period Closing
July 31, 1914.

General Conditions.

Arbitration.

Section 1.

1. In case of any local trouble arising at any time through the failure to agree betwen the foreman and any employes, the pit committee and foreman are empowerd to adjust it; and in case of their disagreement, or failure to act within two days, it shall be immediately referred to the superintendent of the company and the District President of the U. M. W. of A. In whose district the controversy arises,

or such person as either may designate to represent
1389 him, and should they fail to agree, it shall then be referred by either party to the Commissioner of the Southwestern Interstate Coal Operators Association, and the District President of the United Mine Workers of America in whose district the question arises, or such persons as they may designate for its adjustment.

2. An Arbitration Board, to consist of the District President, in whose district the controversy arises, and the Commissioner of the Operators' Association, and Mr. John Steele shall decide all questions of dispute that are not settled under Paragraph 1 of Section 1, and the mines shall continue in operation pending final adjustment of such disputes.

If for any reason the Arbitrator above named should fail to qualify, his successor shall be appointed by the President, Treasurer and Commissioner of the Operators' Association, on the part of the Operators, and the three district Presidents of Districts 14, 21, and 25, on the part of the miners.

3. The written terms of this contract, the decisions of the Commissioner and District President, local customs as to prices and conditions of employment, that are established as being in effect at the expiration of the 1910-'12 contract, cannot be changed; shall remain in effect and shall not be subject to arbitration.

4. If there should be any dispute as to whether a grievance is subject to arbitration, it shall, upon request of either side to this contract, be referred to an Appeal Board, to be composed of one miner and one operator and a third party, to be selected jointly in each district; the said Appeal Board to decide the point at issue; the mines to continue in
1390 operation pending a finel decision, as provided in Paragraph 2, Section 1.

5. If either party feels that the decision rendered by the Arbitrator sets aside the written terms of the contract, or is contrary to local customs, prices or conditions of employment, or has been rendered contrary to the facts as presented to him, the aggrieved party shall have the right to appeal to the said Appeal Board herein provided, who shall, if the facts so warrant, order a re-hearing and demand the case to the Arbitrator.

6. The Arbitration Board shall meet at some convenient point in each district to settle the dispute arising in that district, and shall meet at the locality where the dispute arises should it be deemed advisable by either side to do so.

7. The Arbitrator shall be paid such reasonable compensation and expenses for his services as may be agreed upon between him and the parties hereto, such expenses to be paid jointly by District 14, 21 and 25, and the Operators' Association. The miners' proportion of the Arbitrator's compensation and expenses shall be divided among Districts 14, 21, and 25 equally.

Eight Hour Day.

Section 2.

1. For all classes of labor eight hours shall constitute a day's work. The going to and coming from the respective working places is to be done on the employe's own time. All company men shall perform whatever labor the foreman may direct. An eight hour day means eight hours' work at the usual working places, exclusive of noon time, which shall be one-half hour for all classes of day labor. This
1391 shall be exclusive of the time required in reaching such working places in the morning and departing from the same at night. The operator may refuse to allow any day man to work on any day on which he fails to be at his working place at the starting time.

Penalties For Loading Impurities.

Section 3.

1. In order to insure the production of clean and marketable coal, it is herein provided that if any miner or loader shall load with his coal, sulphur, bone, slate, black-jack or other impurities, he shall for the first offense be notified by the weighman and check-weighman on the miners' bulletin; for the second offense, he may be suspended for one day or be fined 50 cents; for the third and each subsequent offense occuring in any consecutive thirty days, he may be suspended for three days, or fined $1.00; provided, if in any case it is shown that a miner or loader maliciously or knowingly loads impurities, he shall be subject to discharge.

2. It is further agreed that if any miner or loader has been fined, suspended or discharged, and claims that an injustice has been done him, the matter shall be taken up for invstigation, and adjusted in the manner provided for in Section 1 of this agreement.

3. It is further agreed that all moneys collected from fines, as provided for in the foregoing paragraphs of this section, shall be deposited to the joint account of the Secretary-Treasurer of Districts 14, 21 and 25 of the U. M. W. of A. and the Secretary-Treasurer of the Southwestern Interstate Coal Operators' Association, and disposition of said funds shall be made on the joint account of said Sec-
1392 retary-Treasurers.

4. It shall be the duty of the pit committee and mine foreman at the end of each day's work to inspect the dirt loaded in coal during said day and redned decision hereunder.

Hiring, Discharging And Time To Be Paid For.

Section 4.

1. The management of the mine, the direction of the working force, and the right to hire and discharge are vested exclusively in the operator, and the U. M. W. of A. shall not abridge these rights. It is not the intention of this provision to encourage the discharge of employes, or the refusal of employment to applicants because of personal prejudice of activity in matters affecting the U. M. W. of A. If any employe shall be discharged or suspended by the management and it is claimed that an injustice has been done him, an investigation, to be conducted by the parties and in the manner set forth in Section 1, shall be taken up promptly, and if it is proven that an injustice has been done, the management shall reinstate said employe and pay him full compensation for the time he has been suspended and out of employment.

Note: Our understanding of Paragraph 1, Section 4, relating to discharge, is that no man shall be discharged except for sufficient cause other than personal prejudice or activity in matters relating to the Untied Mine Workers of America.

2. Provided, that if at the end of five days after the discharge of an employe who claims an injustice has been done him, and an investigation has not been made and a final decision reached within that time, such discharged employe will be given employment pending the final disposition of
1393 the case, except in aggravated cases.

Note: In Section 4, Paragraph 2, the word "aggravated" as used therein, shall apply to cases of neglect of duty and disobedience to instructions or orders. In all cases of

discharge the foreman shall set forth plainly the cause for which the employe was discharged. It will not be sufficient to say, "This is an aggravated case"; the cause must accompany the act.

If the discharge employe be a miner the employment given under his clause will be in his regular working place, and if a man, he will be given such employment at day work as the management elects and that he is competent to perform. If such employment takes a lower rate of wages than that at which he was employed at the time of his discharge, and the final decision of the case be in his favor, he will be paid in the final compensation and adjustment of the case at the same rate of wages he was receiving at the time he was discharged.

3. In order that no disputes will arise it is hereby agreed that the foregoing paragraph of this section shall be construed that day men shall receive the scale of wage for the work at which they were employed when suspended and miners $3.13 per day.

4. When the foreman, as provided for in Paragraph 1 of this section, directs an employe to do labor, the scale of wages being lower than his regular scale, he shall be paid the wage scale as paid for labor from which he was transferred, during time employed.

Suspension Of Mining.

Section 5.

1. In case of either local or general suspension of
1394 mining either at the expiration of this contract or otherwise, the engineers shall not suspend work, but shall, when mining is suspended, fully protect all the company's property under their care and operate fans and pumps and lower and hoist such men or supplies as may be required to protect the company's property, and any and all coal required to keep up the steam at the company's coal plants. But it is understood and agreed that the operator will not ask them to hoist any coal produced by non-union labor for sale in the market. Should the interest of the engineers be directly involved in any issue at the expiration of this contract, and any engineers cease from work, the United Mine Workers of America will provide competent men to perform the emergency work above recited at the scale price in effect at the time of the suspension, subject to any subsequent settlement. The operator, at his option, to retain only such engineers as are required, but with the understand-

ing that all of the engineers employed at the time of the suspension shall be entitled to an equal division of the work.

2. All mines of members of the Association idle on March 31st, by reason of strikes, or idle for other causes, except for non-payment of pay rolls, shall resume operation when condition of market justified, without prejudice or interference.

Local Demands.

Section 6.

1. There shall be no demands made locally by either operators or employes which are in conflict with this agreement, or any District agreement, and there shall be no provisions imposed violating the same.

1395 2. If any mine or any substantial part of a mine is laid idle or shut down in violation of this contract by any operator or any agent of any operator, such operator shall pay to the mine workers employed in said mine, which are thereby laid idle, the sum of one dollar per day for each of such mine workers for each day or part of day which said mine is so laid idle, which sum shall be added to the regular pay account of each of said mine workers and be paid him with such regular account.

3. If any mine or any substantial part of a mine is shut down or laid idle, in violation of this contract, by any local union, member or members of any local union, pit committee, check-weighman, or other or different officer or officers or committee of the U. M. W. of A., said operator may withhold for his or its own use from any fund checked off by him or it from the wages of the employes at said mine and otherwise payable by said operator to the officers of the local union having jurisdiction over the workmen at said mine, a sum equal to fifty cents per day per men for all the United Mine Workers who are so idle at said mine for each day or part of a day such mine or substantial part thereof is so shut down or laid idle.

4. Any question or disagreement as to any such shut down or the laying idle of any mine being in violation of this contract and the rights of the injured party to the indemnity or penalties hereby prescribed, shall be determined and finally settled as other disagreements are provided to be settled by Section 1 of this agreement. But no idemnity or penalty above provided shall be withheld or paid to the party entitled thereto until any disagreement concerning the same

has been so finally determined; except where any mine
1396 worker leaves the employ of the company, in which case the company may deduct the penalty from such mine worker's wages before paying him, and in the event the case is not finally sustained, then any penalty so collected from such mine worker's leaving the employ of the company will be remitted to the local union having jurisdiction at the mine affected, and by it paid to the parties from whom it was originally collected.

Payment of Wages.

Section 7.

1. The operators agree to pay twice a month, the dates of payment to be left as at present; and these payments are to be made at the office nearest to the mine wherein or at which the employes are employed; provided, however, that this office shall be located not more than two miles from such mine.

2. Any employe wishing to leave the service of an operator shall, upon giving the mine foreman three days' notice of his intention to do so, receive all money due him within twenty-four hours after he has left the service of an operator; provided that not more than 10 per cent of the employes shall avail themselves of said right in any one week.

Check-off.

Section 8.

1. The operator will recognize the pit committee in the discharge of their duties, as provided for in this agreement, and [agtee] to check off all dues, assessments, fines and initiations from all miners and mine laborers when desired. In order to protect the companies, the U. M. W. of A. Agrees, when the companies so demand, to furnish a collective and continuous order authorizing the company to make such deductions. The companies agree to furnish the min-
1397 ers' local representatives a monthly statement showing separately the amount of dues, assessments, fines and initiations collected. In case any fine is imposed, the propriety of which is questioned, the amount of such fine shall be held by the operator until the case is taken up and a decision reached.

2. All deductions for dues, assessments, initiations and fines shall be made through the company office upon statement made by the check-weighman, or a duly authorized representative of the local union. It is understood that

powder, oil and smithing shall have prior claim, and not to exceed one-half of the regular initiation fee shall be collected in any one pay.

3. It is agreed that the miners may employe a check-weighman to see that coal is properly weighed and a correct record made thereof, and when such check-weighman is employed, the companies shall furnish him a check number, and he shall credit to his number such portion of each miner's coal as he may be authorized to do by the local union.

Drivers.

Section 9.

1. Drivers shall take their mules to and from the stables, and the time required in so doing shall not include any part of the day's labor; their time beginning when they reach the change at which they receive empty cars—that is, the parting drivers at the shaft bottom and the inside drivers at the parting—and ending at the same places; but in no case shall a driver's time be docked while he is waiting for such cars at the points named. The inside drivers, at their option, may either walk to and from ther parting, or take with them, without compensation, either [lodaed] or empty
1398 cars to enable them to ride. This provision, however, shall not prevent the inside drivers from bringing to and taking from the bottom regular trips, if so directed by the mine foreman; provided such work is done within the eight hours.

2. When the stables are located outside the mine companies agree to deliver the mules at the bottom of the shaft in the morning and relieve the drivers of the mules at the bottom of the shaft at night.

3. When the day men go into the mine in the morning they shall be entitled to two hours' pay whether or not the mine work full two hours; but after the first two hours the men shall be paid for every hour thereafter, by the hour, for each hour's work or fractional part thereof, If, for any reason, the regular work cannot be furnished the inside day laborers for a portion of the first two hours, the operators shall furnish other than the regular labor for the unexpired time.

Equal Turn.

Section 10.

1. The operator shall see that an equal turn is offered each miner and that he be given a fair chance to obtain the

same. The check-weighman shall keep a turn bulletin for the turnkeeper's guidance. The drivers shall be subject to whomever the mine manager shall designate as turnkeeper in pursuance hereof.

Measurements.

Section 11.

1. It is agreed that measurements of entries, brushing, room, turning and dead work shall be made semi-monthly and payment in full shall be made for such work in the same manner as other work is paid for.

1399 Condition of the Mine.

Section 12.

1. The company shall keep the mine in as dry condition as practicable, by keeping the water off the road and out of the working places. When a miner has to leave his working place on account water, through the neglect of the company, they shall employ said miner doing company work when practicable, and provided that said miner is competent to do such work, or he will be given another working place until such water is taken out of his place.

Doctor.

Section 13.

1. No deduction shall be made for doctor unless such deduction is authorized by the individual employe.

Provisions for Injured.

Section 14.

1. The operator shall keep sufficient blankets, oil, bandages, etc., at each mine and provide such suitable conveyance as is available to properly convey the injured persons to their homes after an accident.

Deaths and Funerals.

Section 15.

1. In the event of an instantaneous death by accident in the mine, employes shall have the privilege of discontinuing work for the remainder of that day only; Work, at the option of the operator, shall be resumed the day following and continue thereafter. In case the operator elects to operate the mines on the day of the funeral of the deceased as above, or where death has resulted from an accident in the mine, in-

dividual employes may, at their option, absent themselves from work, for the purpose of attending such funeral, but the purpose of attending such funeral, but not otherwise, and whether attending such funeral or not, each member of the U. M. W. of A. employed at the mine at which the deceased member was employed, shall contribute fifty (50) cents and the operator ($25) dollars for the benefit of the family of the deceased or his legal representatives, to be collected through the office of the company. In the event that the mines are thrown idle on account of the employes' failure to report for work in the time intervening between the time of the accident and the funeral or on the day of the funeral, then the company shall not be called upon for the payment of the twenty-five ($25) dollars above referred to.

2. Except in cases of fatal accidents, as above, the mine shall in no case be thrown idle because of any death or funeral, but in case of the death of an employe of the company or member of his family, any individual miner may, at his option, absent himself from work for the purpose of attending such funeral, but not otherwise.

Powder.

Section 16.

1. The price of powder during the life of this contract shall be $2.00 per 25-pound keg. In Kansas the price of jowder shall be $1.00 per 12-1/2 pound keg.

2. There shall be no other explosive than black powder used for shooting coal in the mines except upon the mutual consent of the pit boss and the mine committee, who may allow the use of other explosives in entries and slopes or places regarded as deficient and faulty.

Railroad Cars at Mines.

Section 17.

1. When an adequate number of empty railroad cars are at the mines at the starting time in the morning to work [one-quarte] day, and the operator has assurances from the railroad company that more cars will be placed at the mine before the empty cars already at the mine are loaded, then all employes shall go to work.

2. Whenever any operator may desire to mine and stock his coal, either in bins or on the ground, the employes shall

go to work whether there are any empty railroad cars at the mine or not.

New Mines.

[Xection] 18.

1. Where the development of a new mine is begun during the period covered by this agreement, scale of wages covering the labor at such new mine will be the same as in other mines in the neighborhood.

2. Where a mine is being developed in a new part of the [firled] where new conditions are encountered, a scale of wages and rates will be made by the Commissioner for the Operators and the District President for the miners.

Classes of Work.

Section 19.

1. The erection of head frames, buildings, scales, machinery, railroad switches, etc., necessary for the completion of a plant to hoist coal, all being in the nature of construction work, are to be excluded from the jurisdiction of the U. M. W. of A. Extensive repairs to and rebuilding of the same class of work shall also be included in the same, pro-
1402 vided that any or all members of the U. M. W. of A. who may be employed at such work shall not be asked to work in conflict with the terms of this agreement.

2. It is further agreed that the reloading of coal that has been mined and unloaded on the ground shall be exempt from the jurisdiction of the U. M. W. of A.

Duties of Pit Committee.

Section 20.

1. The duties of the pit committee shall be confined to the adjustment of disputes between the pit boss and any member of the U. M. W. of A. Working in and around the mines, arising out of this agreement or any district agreement made in connection therewith, when the pit boss and said miner or mine laborer have failed to agree.

2. In case of any local trouble arising in any mine [a] through such failure to agree between the pit boss and any miner or mine laborer, the pit committee and the pit boss are empowered to adjust it, and in the case their disagreement it shall be referred to the superintendent of the company and the District President of the U. M. W. of A. or such person as he may designate to represent him; and

should they fail to agree, shall be referred to the Commissioner of the Southwestern Interstate Coal Operators Association and the District President of the U. M. W. of A. for adjustment; and in all cases the mines, miners, mine laborers and parties involved must continue at work pending an investigation and adjustment, as provided for in Section 1.

2. If any day men refuse to continue at work because of a grievance which has not been taken up for adjustment in the manner provided herein, and such action shall
1403 seem likely to [to] impede the operation of the mine, the pit committee shall immediately furnish a man or men to take such vacant place or places at the scale [rqte], in order that the mine may continue at work, and it shall be the duty of any member or members of the United Mine Workers who may be called upon by the pit boss or pit committee to immediately take the place or places assigned to him or them in pursuance thereof. Provided that this paragraph shall not prevent the enforcement of the other penalties herein provided for.

4. The pit committee, in the discharge of its duties, shall under no circumstances go around the mine for any cause whatever, unless called upon by the pit boss or by a miner or company man who may have a grievance that he cannot settle with the boss. Any pit committeeman who shall attempt to execute any local rule or proceedings in conflict with any provision of this contract, or any other made in pursuance [hereoe], shall be forthwith deposed as committeeman. The foregoing shall not be construed to prohibit the pit committee from looking after the matter of membership, dues and initiation in any proper manner.

5. Members of the pit committee employed as day men shall not leave their places of duty during working hours except by permission of the operator, or in [casts] involving the stoppage of the mine.

Expiration.

Section 21.

1. This contract shall continue in full force and effect beginning April 1, 1912, and expiring July 31, 1914.

1404

Contract
for
District No. 21
U. M. W. of A.
Adopted at Kansas City, Mo., May 29,
1912 for the period ending
July 31, 1914.

Prices for Mining Coal in Oklahoma.

1. Coalgate, Pittsburg, Pocahontas, Brewerville, Baker, Krebs No. 11, No. 5 and 7, Buck No. 6, Hartshorne, Halleyville Gowen, Wilburton, Lutie, Turkey Creek, Witteville, Savannah, Adamson and Red Oak, per ton for mine run coal 78 cents.

2. Alderson, Krebs No. 8, Carbon, Bache, Craig, and Dew per ton for mine run coal 83-½ cents.

3. Lehigh, mine run 78 cents per ton.

4. Bolen-Darnell, McAlester mines, mine run 78 cents per ton.

5. Samples, McAlester mine, mine run, 78 cents per ton.

6. All entry, yardage and deficient work shall be paid 1910-1912 rate plus 5.26 per cent advance, and the same rules and customs then existing in Oklahoma shall be continued in force during the life of this agreement.

Room and Pillar Scale—Midway.

In rooms, room necks and cross-cuts at Midway, the price shall be 86 cents per ton, mine run coal. Coal mined in entries and air courses, the price shall be 80 cents per ton, mine run. The price per ton at Midway shall cover all bottom taken up and the removal of top bony.

All yardage, entry and dead work at Midway, also the inside and outside day wage scale, to be paid 1910-1912
1405 rate [plust] 5.26 per cent.

The price for yardage and dead work at No. 7 Krebs shall be as follows:

Where coal is three feet eight inches and under, the same yardage and dead work rates will be paid as No. 8 Krebs. Where coal is over three feet eight inches, same yardage and dead work rate will be paid as at No. 11 Krebs.

Prices on yardage and dead work paid 1910-1912 rate plus 5.26 per cent. Room cross-cuts will be paid the same as air courses where they are cut.

Scale of Prices on Cross-Bars,

[drt] and Deficient Narrow Work

In Room Necks at the Mines on

Atoka Track, Excepting Midway.

Setting cross-bars, 37 cents, eight-foot bar. Loading dirt in cars, 29-½ cents per car. Air course yardage in rooms turned off the entry where top will not allow widening out. Where bottom is required to be taken up, entry prices shall be paid. One-half room turning price to be paid for widening out.

Prices on clod at Bolen-Darnell and Samples' mines shall be paid for at the rates prevailing 1910-1912, plus 5.26 per cent.

The prices now in force at Wilburton to be as follows:

Scale of prices governing yardage at mines of Great Western Coal & Coke Company at Wilburton, Oklahoma.

For loading dirt and rock where same cannot be gobbed, 34 cents per car.

For entry work where brushing is not required, $2.49 per yard.

1406 Where brushing is required, it shall be paid for at the rate of 56 cents for 8 inches.

Air courses shall be paid for at the rate of $2.00 per yard.

Bottom brushing shall be paid for at the rate of 56 cents per yard, where it is taken up for turning rooms.

The price of setting cross-bars shall be 31-½ cents per bar, under same conditions which have existed during past years.

Savannah Scale.

1. That the miners shall do all work ordinarily done in room work without additional compensation, with the exception of that which is already being done, viz; Battery and Wing Boards.

2. That the miners shall carry a twelve (12) foot battery in each and every room but shall have the privilege of drawing the battery four (4) feet below the lower rib of the cross-cut or break-through, after cross-cut or break-through has been finished.

3. That the cross-cuts or break-throughs shall be made and driven as directed by the mine foreman or superintendent, and shall be paid for at the rate of $2.00 per yard.

4. That all coal shall be loaded by the miners and paid for at the rate of 78 cents per ton, mine run coal.

5. The miner shall keep his working place well timbered and the traveling ways on both sides of the battery open.

6. In case a miner desires to leave the service of the company, and his place is in good working condition the company will purchase the coal in the battery, and shall pay for the same at the rate of one dollar and seventy cents ($1.70) [pr] running yard, and the same shall be deducted from the
1407 next miner taking the room. This is in case the battery is twelve (12) feet wide.

Electric Chain Machine Scale.

Loaders for chain machines are to receive 52-½ cents per ton in all classes of working places.

Runners are to do all work now done by pick miners, except cutting coal. This includes taking up the same amount of bottom under the same conditions as apply to pick miners. Loaders are to furnish their own explosives, drill and prepare the shots.

The operator has the option of having the coal loaded on the day wage rate if he so elects, this rate to be $2.84. No loader will be employed on the day wage scale where it is practicable to employ him on the tonnage rate.

Yardage Machine Scale.

Yardage and room turning to be two-thirds of the price paid for pick yardage and room turning, one-half of which is to be paid to the loader and one-half to the machine men. Three working places will be assigned to two loaders, where possible.

Oklahoma Puncher Machine Scale.

1. This includes all classes of puncher machines.

2. Cutting in all classes of working places shall be 17 cents per ton, to be divided as follows:

Runners,	8-¾ cents per ton
Helpers,	8-¼ cents per ton
Loaders	50 cents per ton

Loaders to furnish explosives and do all other work done by a pick miner except cutting.

If the machine men cut up their coal at any time, the machine crew can load out the coal and clean up the place,
1408 the same as a loader, and check the coal out to their credit equally.

Yardage.

Yardage and room turning to be two-thirds the price paid for pick yardage and room turning; one-half of which is to be paid to the loaders and one-half to the machine men.

Henryetta Scale.

Room and Pillar Mines—Shooting Coal.

Mine run coal 83-½ cents per ton, mining price to include the handling of cars between entry switch and face of room, when one man can push loaded car. When one man cannot push loaded car, driver or pusher to assist miner. Mining rate also includes the laying of track in rooms.

Entries 12 feet wide or less, including brushing 5 feet [hign] on top of rail, and 6 feet wide, $3.00 per yard. When required to brush 6 feet high above rail and 6 feet wide, $3.24 per yard.

All air courses and break-throughs where cut, $2.00 per yard when not brushed.

Room turning, 12 foot necks, $6.24, 6 foot necks, $3.12. Length of neck to be driven at the option of the operator.

Room and Pillar Mines—Mining Coal.

Prices for mining and cutting coal on both ribs shall be $1.10 per ton mine run coal. Said mining price includes also the doing of all work specified in the above scale for room and pillar mines—shooting coal. Under this plan [on] powder shall be used. Prices and conditions for entry work and air courses, break-throughs and room turning to be the same as specified in above scale for room and pillar mines,
1409 shooting coal. Miners shall [hve] the right to use powder in turning all [romms].

When entryman quits working place his brushing must be done to within sixteen feet of face.

No compensation will be paid for gob wall at air courses. cross-cuts, except where ordered to be built by mine foreman. Where gob wall is required to be built, the price for doing

same is to be agreed upon by the mine foreman and the miners doing the work.

Miners in rooms to lay their own track. Miners in narrow work to lay temporary track, without compensation? Company to lay permanent track in narrow work.

Where draw slate falls in entries it shall be paid for at the rate of 2.7 cents per inch per running yard, for each inch in excess of 2 inches for each five feet in width except that no compensation for draw slate will be allowed for that part falling in the brushing or roadway width.

Where pit boss and miner agree on price for any certain work, this price shall be final, except where it conflicts with the terms of the contract.

Inside Day Wage Scale.

	Fire boss	$3.38
	Timbermen	2.84
	Track layers,	2.84
	Track layers' helpers	2.62
	Trappers	1.25
	Bottom cakers,	2.84
	Drivers	2.84
	Trip riders	2.84
	Pushers	2.84
1410	Water haulers and machine haulers,	$2.84
	All other inside day labor	2.62
	Spragging, coupling and greasing, when done by boys,	1.95
	Shot firers (under normal conditions)	3.34
	Fire runners,	2.84
	Electric hoist operators for boys	2.22
	Electric slope engineers,	2.84
	Motormen	2.84
	Pump men (inside)	2.84
	Head machinists	3.44
	Machinists	3.05
	"Boys" means those of maximum age of 19 years.	
	Day wages for digging coal	3.15
	Machine runners,	3.34
	Machine helpers,	3.05
	Shaft sinkers,	3.38

Outside Day Wage Scale.

First blacksmiths,	3.34
Second blacksmiths,	3.05
Blacksmiths' helpers,	2.62
Carpenters,	2.69
All other outside day labor	2.25

Scale for Engineers.

1. The price for engineers in this contract are used upon nine (9) hours per day and shall be as follows:

2. First class engineers, hoisting five hundred (500) tons of coal and over per day, $87.77 per month.

1411 3. Second class engineers hoisting three hundred (300) tons and less than 500 tons of coal per day, $81.10 per month.

4. Third class engineers, hoisting less than three hundred (300) tons of coal per day, $72.21 per month.

5. The minimum rate for tail rope and slope engineers shall be $2.64 per day or $68.88 per month. Maximum rate for tail rope and slope engineers shall be $3.00 per day of $77.77 per month.

6. Twenty-six (26) days shall constitute a month.

Any overtime in excess of twenty-six (26) days per month, or of nine (9) hours per day, shall be paid for at a proportionate rate.

General Conditions.

1. All break-throughs in Oklahoma shall be driven from six to eight feet wide, and paid for at the 1910-1912 rate plus 5.26 per cent. All room break-throughs must be sheared before being shot, measurement of break-through shall be average of both ribs.

2. All coal in Oklahoma under 2 feet 10 inches on the 83-½ cent rate be declared deficient.

3. All coal under 4 feet in height in Oklahoma, where bottom brushing has not been paid for in rooms, it shall be paid for at 2-½ cents per inch per yard to make the required height.

4. Where air courses are driven in chute or platform work, shall be considered as air courses, and shall be paid for at the regular district price, provided such air courses or break-throughs are cut or sheared before being shot.

5. The company shall put in all batteries, wing boards and platforms in all chute work in Oklahoma.

1412 6. The miners shall load their own coal in pitching veins in this district at the regular scale price.

7. The taking up of bottom for stub switches for chute rooms will be done by the miner, and payment for same to be based on prices in effect 1910-1912 plus 5.26 per cent.

8. All company men shall receive an equal share of all work when competent to do such work.

9. Miners shall have the right to send out their dull tools on top of loaded cars, and the company shall deliver same to blacksmith shop for sharpening and no man be allowed to carry tools up or down shaft. In slope the company shall deliver the same to parting or bottom. The company shall not be responsible for tools.

10. Any underground employe not on hand to go down to work at the hour for commencing work shall not be entitled to go below, except at the convenience of the company.

11. When an employe is sick or injured he shall be given a cage at once. When a cage load of men come to the bottom of the shaft, who have been prevented from working by reason of falls or other things over which they have no control, they shall be given a cage at once. For the accommodation of individual employes less than a cage load, who have been prevented from working as above, cage will be run mid-forenoon, noon and mid-afternoon of each working day. Provided, however, that the foregoing shall not be [premitted] to enable men to leave their work for other than the reasons stated above.

12. The sinking of slopes and driving narrow work through faults shall be left to local union and mine management for adjustment.

13. All double shift places to be paid 32 cents per
1413 yard extra.

14. All wet entries, rooms, slopes, slope air courses, and all other work connected with the slopes shall be left to local union and superintendent or manager for agreement of price.

15. Frozen or seamy coal, stuck top or bottom, shall be deficient work, and shall be paid for extra, the same to be determined by mine committee and pit boss. If they fail to agree the miner shall be given an average place in the mine.

16. Where pit committee desires to test scales, such test shall be made before or after working hours, except in cases of emergency.

Scale Prices For Blacksmithing Miners' Tools And Machine Mine Tools.

17. Three-fourths of 1 per cent on gross earnings for blacksmithing of miners' tools and three-eights of 1 per cent on gross earnings for machine coal loaders' tools.

All sharpening and repairs of tools shall be done as promptly as possible.

18. The present condition in regard to double and single work shall prevail.

19. Any employe absenting himself from work two days and not reporting for work on the morning of the third day, shall forfeit his right to his working place, unless excused by mine foreman, but shall be given another place on turn, provided, however, this shall not apply in case of sickness.

20. Where a fall occurs in any working place the company shall make preparations to clean up the same within four hours from time of notice; failing to do so, the miner or miners affected shall clean up same, company paying
1414 at the rate of $2.84 per shift.

21. Price for moving all draw slate and rock exceeding two inches in [thicikness], 2.7 cents per inch per running yard for each five feet in width and all over and above to be paid accordingly. This applies to all mines, except where there is a special contract.

22. Where rooms are driven up narrow on account of bad top, the yardage shall be same as that in air courses, measurements to be made from the entry and when room is widened out, one-half room turning shall be paid. Where bottom it taken up, entry yardage shall be paid. This does not apply in rooms that have been widened out, then narrowed up and renecked, but in these cases the prices shall be the 1910-1912 rate, plue 5.26 per cent.

23. When a car leaves working [plact] it is in charge of the company and average weight shall be paid for broken cars. Such cars shall be reported by the man that dumps the coal. The company shall keep all cars in good repair.

24. All coal four feet and over, where it comes down to under a thickness of three feet four inches, shall be declared deficient work.

25. When cars are delivered at the working face, all timbers, props and rails shall be delivered there, but in chute rooms, where in the judgment of the company, the pitch is too steep to take care of the face, the miner shall, as a part of the work to be done by him, for the price of mining a ton of coal, carry such props as he may need from the entry to the face of his working place.

Powder.

26-a. The price of black powder during the life of
1415 this contract shall be $2.00 for a twenty-five pound keg.

26-b. Powder and other explosives to be purchased from the operator exclusively, who will deliver it to the working place as provided by law.

26-c. The conditions relating to the use and sale of permissible explosives shall remain the same as those in effect March 31, 1912.

27. When an operator desires to drive room necks of greater length than the standard, he will be required to pay scale price for room turning, air courses yardage for each yard in addition to the standard length, where bottom is not taken up. Where bottom is taken up he will be required to pay entry yardage for each yard in addition to the standard length.

28. No yardage will be allowed where rooms are used as entries or air courses. Except this will not apply where a room is driven for the purpose of developing other rooms and evading the payment of yardage.

29. In all brushing or draw slate paid for on the yard or inch per yard basis the rock shall be disposed of by gobbing or loading into cars by the miner, at the prices named, without any additional compensation. This applies only to mines represented by the Operators' Association.

30. The question of flat sheets and wing board in chute rooms, the same conditions shall continue in the various mines as existed during the life of the last contract.

31. The price paid for mining the coal is to cover compensation for all other work done necessary to keep the working place in perfect condition for the protection of person and property.

32. It is understood and agreed that the miner is required to keep his roadway in good condition from the entry
1416 switch to his working face, except that this will not apply in cases where a man takes a place partly worked out. In this case the miner will be responsible only for that part of the roadway he drives.

33. In the Lehigh-Coalgate field any room wider than fifteen feet shall not be considered narrow work.

Arkansas Contract.

Prices for mining in Arkansas and Eastern Oklahoma, at Coal Hill: Alix, Denning, Bonanza, Jenny Lind, Greenwood, Excelsior, Hackett City, Montreal, Burma, Midland City, Huntington, Hartford, Bates and Peoria, Arkansas and Sutter and Howe, Oklahoma.

1. The price for mine run coal shall be 68 cents per ton of 2,000 pounds.

Ouita.

1. For hand picked coal, free from slack slate, sulphur, bony and blackjack, the price shall be as follows:

From the 1st of September to the 1st of March $1.32.

From the 1st of March to the 31st of August $1.17.

Spadra.

1. For mine run, 93½ cents per ton of 2,000 pounds.

2. For all coal under three feet in height, for each three inches less of coal, shall be 5.6 cents per ton, additional to the above prices.

The prices for narrow work shall be as follows:

20 feet gob entries or air courses, per yard,	$1.25
18 feet gob entries or air courses, per yard,	1.39
16 feet gob entries or air courses, per yard,	1.66
12 feet gob entries or air courses, per yard,	1.95
8 foot gob entries or air courses, per yard,	2.22

1417 All brushing, 16 inch, per yard, $1.25

All over 16 inches 7-¾ cents for each inch extra. The company shall have the right to do all brushing by shift work at $2.84 per day, when desired.

All cross-cuts in rooms shall be per yard,	$1.25
All room turning, shall be per yard	1.25

The company agrees to pay 11.2 cents per ton for all coal coming from rooms over one hundred and fifty feet in length.

The price for band rock in the Spadra field, excepting roadways in entries, shall be as follows: For all band rock over four inches in thickness up to eight inches in thickness, shall be 2.2 cents per ton per inch; all band rock eight inches in thickness up to and including sixteen inches in thickness shall be 2.7 cents per ton per inch, measurements to be made at the face in three different places.

The following prices for slopes and slope airways under normal conditions shall be:

Slope, 8 feet wide, 5-½ feet in height, per yard	$6.66
Slope airways, 12 feet wide, per yard,	3.18

All wet places shall be, per yard, 56 cents extra, and company to take care of the water.

The price for building gob wall shall be per yard, $1.25.

Russellville.

1. 10 cents per ton less than the price paid at Ouita.

2. Entry yardage and deficiency work will be 1910-1912 rate plus 5.26 per cent advance. The same rules and customs defining deficient work in Russellville shall be in force during the life of this agreement.

Local Conditions.

1. The brushing price at Bonanza, Jenny Lind, Coal Hill and Denning, shall be $1.56 for 18 inches of brushing. Where the company requires more than eighteen inches to be brushed, they agree to pay 8.8 cents per inch for each additional inch over eighteen inches.

1418

2. Draw slate in air courses will be paid as follows:

For three inches or over.....	27 cents
For six inches or over.....	56 cents
For nine inches or over.....	83 cents
For twelve inches or over.....1.12	

3. All coal in Arkansas 2 feet 10 inches and less in height shall be considered deficient work, except where special price has been made.

All coal at Bonanza three feet under shall be considered deficient work.

4. Scale of prices to be paid for draw slate and rock at mines at Burma and Montreal No. 2:

Over four inches and up to eight inches, 62 cents per yard. Over eight inches and up to twelve inches, 94 cents per yard. Over twelve inches, to be settled locally. Brushing entries to be $1.57 per yard.

5. Where bottom is taken up in rooms and room necks, it shall be paid 62 cents per yard. This applies to Burma only.

6. All cross-cuts in rooms when required to cut through, shall be paid at the rate of cross-cut yardage governing previous contract, plus 5.26 per cent. This applies to mines in Arkansas where cross-cuts were not paid for during former contract.

7. Brushing bottom in entries at Dallas mine, Burma, Arkansas, width of brushing to be four feet, height four
1419 feet six inches on top of rail. All over and above this height and width to be paid at the rate of 7-¾ cents per inch.

8. (Agreement to refer same to P. R. Stewart and George Richardson to arrive at settlement, and become part of this contract.)

9. Where miners at Coal Hill, No. 18, Jenny Lind, and Denning, Arkansas, have been pushing cars both ways the company shall assist the miner one way when necessary; and all miners in Oklahoma who have been pushing cars both ways shall receive for all coal pushed over 200 feet, 5-½ cents per ton extra. The conditions that prevail at Lehigh apply to all mines on the Atoka track in regard to lowering cars down the switch.

10. Where no machine scale exists in any of the mines in Arkansas and Oklahoma either for chain or puncher machines that there will be a commission appointed consisting of two operators and two miners to make a price for loading after machines and also for the cutter and helper, and in case they fail to agree in ten days they shall be empowered to select the fifth member of said commission and in case they fail to agree in five days on the selection of the fifth member the selection of the fifth member to be left to President Keith of the Southwestern Interstate Coal Operators' Association, and President Stewart of District No. 21, United Mine Workers of America, who shall select said fifth member in five days.

Said commission to have authority to make a day wage scale for loaders, runners and helpers until it is practical to put them on a tonnage basis.

10-a. It is mutually agreed by and between District No. 21, United Mine Workers of America, and the South-
1420 western Interstate Coal Operators' Association that the commission to be appointed under memorandum agreement dated May 21st, which is made a part hereof, shall be for United Mine Workers, District No. 21, P. R. Stewart, and James Mullen, and for the Operators Geo. Richardson and J. E. Finney; and it is further understood and agreed by the parties hereto that prior to taking up the scale for either chain or puncher machines for any part of the district the party hereto may have the right to name another representative or representatives to take the place of the parties named herein, and that a notice of such intention shall be given at the time the meeting is arranged for the purpose of taking up and making said scale. In the event of their failure so to do, the parties named herein shall act.

11. It is agreed that to get a price on taking up bottom at the Greenwood Coal & Lumber Company's mine at Greenwood that as soon as the management reports the mine free from water that the District President shall appoint a man to go to Greenwood and Mr. Wm. McKinley shall represent the Greenwood Coal & Lumber Company. They shall forthwith go to Greenwood to examine the mine. The president of the local shall furnish a man and the company a man to take up bottom in the presence of these representatives. When they have ascertained by actual test the price that should be paid they shall write their findings and give one copy to president of the local and one to the company, and their finding shall be final. In case test is not made by measuring day, old price will be paid.

12. Central Coal & Coke Company mine, Hartford: Entry yardage, [$2.&0] per yard, finish entry. Room brushing 34 cents per yard.

Sutter.

1421 1. The mining price at Sutter shall be 68 cents per ton. Room turning to be $6.25.

2. All entry, yardage and dead work to be 1910 rate, plus 5.26 per cent.

3. All refuse matter thrown into gob shall not be loaded unless same shall be paid for. Rate payment on such work to be agreed on by the company's representative and the

pit committee. All coal shall be loaded the same as mine run coal in the Pittsburg Agreement, namely, every precaution shall be used to prevent the loading of dirt. The rule adopted by the Pittsburg Conference for the loading of impurities shall not apply to Sutter to impurities passed through a screen, but to impurities passed over the screen, except where a miner does not use due caution or maliciously loads impurities.

4. Howe, Oklahoma, shall be included in scale District No. 2.

Inside Day Wage Scale.

Timbermen,	$2.84
[Trick] layers,	2.84
Track layers' helpers,	2.62
Trappers	1.25
Bottom cagers,	2.84
Drivers,	2.84
Trip riders,	2.84
Pushers,	2.84
Water haulers and machine haulers,	2.84
All other inside day labor	2.62
Spragging, coupling and greasing when done by boys,	1.95
1422 Shot firers, under normal conditions,	$3.34.

The fire boss shall receive $3.38 per day, and shall be subject to discharge by the management of the mine without appeal; if competent, shall be given other work.

The fire runner shall receive not less than $2.84 where such is employed.

Electric Hoist Operators:

	Per day.
For boys,	$2.22
Electric slope engineers,	2.84
Motormen	2.84
Pumpmen,	2.84
Head machinists,	3.44
Machinists,	3.05

"Boys" means those of maximum age of 19 years.

Day wages for digging coal,	3.13
Machine runners,	3.34
Machine helpers	3.05
Shaft sinkers,	3.38

Outside Day Wage Scale.

First blacksmiths,	3.34
Second blacksmiths,	3.05
Blacksmiths' helpers,	2.62
Carpenters,	2.69
All other outside day labor,	2.25

Scale for Engineers.

Steam locomotive engineers on outside work shall receive 34 cents per hour.

Engineers, first-class, 500 tons and over per month, $87.77

Second class 300 to 500 tons per month, 81.10.

1423 Third class 300 tons or less, per month 72.21.

The minimum rate for tail rope and slope engineers shall be $2.64 per day, or $68.88 per month; provided, further, that the maximum rate for tail rope and slope engineers shall be $3.00 per day, or $77.77 per month. Twenty-six days to constitute a month's work and nine hours to constitute a day's work. All overtime in excess of nine hours to be paid for at a proportionate rate per hour.

The mining prices, inside and outside day wage scale (except engineers), provided for in this contract, are based upon an eight-hour day.

General Conditions.

1. It is agreed to renew the contract expiring March 31, 1912, for District 21, except where local and district provisions and conditions already agreed to by the miners and operators conflict with the general interstate provisions that may be agreed to by the miners and operators at this conference. All joint decisions made in connection with the aforesaid agreement are confirmed.

2. No person employed underground shall [ues] an inferior grade of lard oil, and the use of any other except lard oil is prohibited. Rope riders in mine slopes are excepted.

3. Where coal is screened before being weighed it shall be dumped on flat sheets and passed over the screen specified in the Pittsburg Agreement, and there shall be no obstruction on said screen.

4. All company men shall receive an equal share of all work when competent to do such work.

5. The gas men shall place marks at last inside break-troughs, showing clearly whether there is any stand-
1424 ing gas in working place. Should there be standing gas, he shall place a gas mark at room neck in addition to mark at inside break-through; but should working place be clear, he shall place marks so indicating this at coal face. No miner shall be permitted to brush out gas.

6. Miners shall have the right to send out their dull tools on top of loaded cars and the company shall deliver same to blacksmith shop for sharpening, and no man be allowed to carry tools up or down shaft. In slopes the company shall deliver the same to parting or bottom. The company shall not be responsible for tools.

7. Any underground employe not on hand to go down to work at the hour for commencing work shall not be entitled to go below except at the convenience of the company. This applies where the company lets down the men on cages or with trip after starting time in the morning.

8. When an employe is sick or injured he shall be given a cage at once. When a cage load of men come to the bottom of the shaft, who have been prevented from working by reason of falls or other things over which they have no control, they shall be given a cage at once. For the accommodation of individual employes less than a cage load who have been prevented from working as above, cage will be run mid-forenoon, noon and mid-afternoon each working day. Provided, however that the foregoing shall not be permitted to enable men to leave their work for other than the reasons stated above.

9. The sinking of slopes and driving narrow work through faults shall be left to local union and mine management for adjustment.

10. All double shift places to be paid 32 cents per
1425 yard extra.

11. All wet entries, rooms, slopes, slope air courses and all other work connected with the slopes shall be left to local union and superintendent or manager for agreement of price.

12. Frozen or seamy coal, stuck top or bottom, shall be deficient work, and shall be paid for extra, the same to be determined by mine committee and pit boss. If they fail to agree, the miner shall be given an average place in the mine.

13. There shall be no deduction for school purposes except authorized by the individuals.

14. For the health and safety of the miners' lives air courses shall be kept up with the entries as near as possible, and cross-cuts shall be driven every forty feet; where gas exists, they shall be driven every thirty feet. No room shall be turned inside the last cross-cut.

15. All coal under four feet in height where bottom has not been paid for in rooms shall be paid for at 2.4 cents per inch yer yard.

Scale Price for Blacksmithing Miners' Tools and Machine Mine Tools.

16. Three-fourths of one per cent on gross earnings for blacksmithing of miners' tools, and three-eighths of one per cent on gross earnings for machine coal loaders' tools.

All sharpening and repairs of tools shall be done as promptly as possible.

17. The present conditions in regard to double and single work shall prevail.

18. Any employe absenting himself from work two days, and not reporting for work on the morning of the
1426 third day, shall forfeit his right to his workings place, unless excused by the mine foreman, but shall be given another place on turn; provided, however, this shall not apply in case of sickness.

19. When a fall occurs in any working place the company shall make preparations to clean up same within four hours from time of notice; failing to do so the miner or miners affected shall clean up same, company paying at the rate of $2.84 per shift.

20. Price for moving all draw slate and rock exceeding two inches in thickness, 2.7 cents per inch running yard for each five feet in widths, and all over and above to be paid accordingly. This applies to all mines except where there is a special contract.

21. Where rooms are driven up narrow on account of bad top, the [hardage], and all over and above to be paid ac- measurements to be made from the entry; and when room is widened out one-half room turning shall be paid. Where bottom is taken up, entry yardage shall be paid. This does not apply in rooms that have been widened out then nar-

rowed up and renecked, but in these cases prices shall be 1910 rate plus 5.26 per cent.

22. When a car leaves working place it is in charge of the company, and average weight shall be paid for broken cars. Such cars shall be reported by the man that dumps the coal. The company shall keep all cars in good repair.

23. All coal four feet and over where it comes down to under a thickness of three feet four inches shall be declared deficient work. This applies to Arkansas and Oklahoma.

24. Where cars are delivered at working face, all timbers and rails shall be delivered there.

1427 25. Where powder is taken into the mine in kegs, it shall be delivered to the working place; otherwise it shall be handled according to the methods in vogue at the various mines.

26. When an employe shall be requested to fill the place of another employe as specified herein, he shall receive the wages of the employe whose place he takes, plus 32 cents; provided, further, that it is not compulsory on any man who may not wish to take such place.

27. The District President of the U. M. W. of A. the Commissioner of the Southwestern Interstate Coal Operators Association, and the State Mine Inspector shall be a committee of three to determine at what places shot firers shall be employed in Arkansas.

In behalf of the Southwestern Interstate Coal Operators' Association:

CHAS. S. KEITH,
President.
W. J. JEMKINS,
Vice-Pres. At Large.
J. H. HIBBENS, Secy.
Per W. D. Ryan.

In behalf of the miners:

P. R. STEWART,
President.
FRED W. HOLT,
Secretary-Treasurer."

Q. The Mammoth Vein Coal Company was the hundred dollar corporation of which you owned $96.00 of it?

1428 A. The Mammoth Vein Coal Mining Company had a capital stock of 100 shares of $1.00 each.

Q. And you owned $96.00 of it?
A. Not at that time. I think that was the basis on which it was incorporated, but the stock was turned over to the Mammoth Vein Coal Company.
Q. Prior to the time the Mammoth Vein Coal Mining Company took charge of No. 4, what company was operating it under this contract of 1912?
A. The Prairie Creek Coal Mining Company.
Q. When did the Prairie Creek Coal Mining Company cease to operate the mine?
A. March 28th, I think was the last day it ran.
Q. The Mammoth Vein Coal Company was represented in the conference that entered into that contract?
A. Yes, sir.
Q. The Prairie Creek Coal Mining Company was also a part of it, was it not? A. Yes, sir.
Q. The Coronado was a party to it? A. Yes, sir.
Q. Now the Coronado proceeded to operate until the 27th of 1914, did it not, Mr. Bache, under this contract?
A. No.
Q. How long did it operate after you began operations on the open shop basis, as No. 4?
A. The miners struck there on the 6th of April.
Q. Struck where? A. At the Coronado Mine.
Q. Mr. Bache, by way of refreshing your memory, don't you know that you were operating the Coronado Mine until the 17th day of May, 1914, and you so reported?
A. No, I don't.
Q. It was in operation after you started up down there, was it? Long after the 6th of April?
1429 A. The men struck on April 6th, and they worked a day or two cleaning up, and cleaned things up.
Q. Do you mean to tell the Court and jury that they had a strike at No. 4?
A. I do.
Q. You do? What was the cause?
A. I don't think it was ever stated to us, they just stopped work.
Q. And stated no cause?
A. As I recall it, they stated none.
Q. Did you not state the other day in your examination in chief, that you decided to go on an open-shop basis, and you bought guns and ammunition and sent your detectives down there preparatory to closing down, and did close it down?
A. No. 4 Prairie Creek?

Q. That is what I am talking about. Then you had no strike there?

A. At Prairie Creek?

Q. Yes. A. No.

Q. You abrogated this contract and proceeded to go on an open shop basis with the hundred dollar corporation?

A. We didn't abrogate this contract, but the Mammoth Vein Coal Mining Company proceeded to operate open shop.

Q. And all this stock in the hundred dollar corporation was owned by the Mammoth Vein Coal Company?

A. I think it was, but the books will show that.

1430 Q. I neglected to ask you, Mr. Bache, about the 1910 and 1912 contract. Did any of your mines operate under the 1910 and 1912 contract as entered into by the Southwestern Operators' Association and the United Mine Workers?

A. No. We were not members of the association; we operated under a separate contract.

Q. The contract that you have testified about?

A. Yes, sir.

Q. Exhibit No. 11, defendants' Exhibit No. 11?

A. Yes, sir.

Mr. Covington: Mr. Stenographer, will you mark this as an exhibit (indicating).

Q. I hand you defendants' Exhibit No. 13 and ask you what it is? A. Joint interstate agreement and contracts in Districts 14, 21 and 25, of the operators and miners, adopted at Kansas City, September 19th, 1910, for a period ending March 31st, 1912,— the Southwestern Coal Operators' Association and the United Mine Workers of America, for Missouri, Kansas, Arkansas and Oklahoma.

Mr. Covington: I offer this in evidence, defendants' Exhibt No. 13.

The Court: It is received.

(Exhibit No. 13, so offered in evidence, is in the 1431 words and figures following):

Exibit 13.

General Conditions.

Arbitration.

Section 1.

1. In case of any local trouble arising at any time through the failure to agree between the foreman and any employes,

the pit committee and foreman are impowered to adjust it: and in case of their disagreement or failure to act within two days, it shall be immediately referred to the superintendent of the company and the District President of the U M. W. of A. in whose district the controversy arises, or such person as either may designate to represent him; and should they fail to agree, it shall then be referred by either party to the Commissioner of the Southwestern Interstate Coal Operators' Association, and the District President of the United Mine Workers of America in whose district the question arises, or such persons as they may designate for its adjustment.

In case there should be any disagreement between the District President and the Commissioner of the Southwestern Interstate Coal Operators' Association, the case shall be referred to the Arbitration Board hereinafter named.

3. The Arbitration Board shall consist of the District President in whose district the controversy arises, and the Commissioner of the Operators' Association, and a third party to be selected in the following manner:

The Thirl arbitrator shall be Mr. W. L. A. Johnson, who shall decide all questions of dispute arising under this Agreement that are not settled under Paragraph 1 of this Agreement.

No decision shall be rendered here under in conflict with the written terms of this contract, or the decisions of
1432 the Commissioner and District President, local customs as to prices and conditions of employment that are established as being in effect at the expiration of the 1908 contract, except where special provisions are made in this contract, changing such decisions, customs, prices and conditions of employment, which shall remain in effect and shall not be subject to arbitration.

In the event of his death, disability, or failure to qualify, his successor shall be appointed by the President, Treasurer and Commissioner of the Operators' Association on the part of the Operators, and the three District Presidents of Districts 14, 21 and 25 on the part of the Miners.

All decisions rendered under this section shall be final and binding on all parties hereto, and the mines shall continue in operation.

4. The Arbitration Board shall meet at some convenient point in each district to settle the disputes arising in that

district, and shall meet at the locality where the dispute arises should it be deemed advisable by either side to do so.

5. The Arbitrator shall be paid for such reasonable compensation and expenses for his services as may be agreed upon between him and the parties hereto, such expenses to be paid jointly by Districts 14, 21 and 25 and the Operators' Association. The miners' proportion of the Arbitrator's [Comepnsation] and expenses shall be divided among Districts 14, 21 and 25. equally

Eight Hour Day.

Section 2.

1. For all classes of labor, eight hours shall constitute a day's work. The going to and coming from the respective working places is to be done on the employe's own time. All company men shall perform whatever labor the fore-
1433 man may direct. An eight hour day means eight hours' work at the usual working places, exclusive of noon time, which shall be one-half hour for all classes of day labor. This shall be exclusive of the time required in reaching such working places in the morning and departing from the same at night. The operator may refuse to allow any day man to work on any day on which he fails to be at his working place at the starting time.

Penalties For Loading Impurities.

Section 3.

1. In order to insure the production of clean and marketable coal, it is herein provided that if any miner or loader shall load with his coal sulphur, bone, slate, black-jack or other impurities, he shall for the first offense be notified by the weighmen and check-weighman on the miner's bulletin; for the second offense, he may be suspended for one day or be fined 50 cents; for the third and each subsequent offense occurring in any consecutive thirty days, he may be suspended for three days or fined $1.00; provided, if in any case it is shown that a miner or loader maliciously or knowingly loads impurities, he shall be subject to discharge.

2. It is further agreed that if any miner or loader has been fined, suspended or disharged, and claims that an injustice as been done him, the matter shall be taken up for investigation and adjusted in the manner provided for in Section 1 of this agreement.

3. It is further agreed that all moneys collected from fines as provided for in the foregoing paragraphs of this section, shall be deposited to the joint account of the Secretary-Treasurer of Districts 14, 21 and 25 of the U. M. W. of A. and the Secretary-Treasurer of the Southwes-
1434 tern Interstate Coal Operators' Association, and disposition of said funds shall be made on the joint account of said Secretary-Treasurers.

4. It shall be the duty of the pit committee and mine foreman at the end of each day's work to inspect the dirt loaded in coal during said day and render decisions hereunder.

Hiring, Discharging And Time To Be Paid For.

Section 4.

1. The management of the mine, the direction of the working force, and the right to hire and discharge, are vested exclusively in the operator, and the U. M. W. of A. shall not abridge these rights. It is not the intention of this provision to encourage the discharge of empolyes, or the refusal of employement to applicants because of personal prejudice or activity in matters affecting the U. M. W. of A. If any employe shall be discharged or suspended by the management and it is claimed that an injustice as been him, an investigation, to be conducted by the parties and in the manner set forth in Section 1, shall be taken up promptly, and if it is proven that an injustice has been done, the management shall reinstate said employe and pay him full compensation for the time he has been suspended and out of employment.

2. Provided, that if at the end of five days after the discharge of an employe who claims an injustice has been done him and an investigation has not been made and a final decision reached, within that time, such discharged employe will be given employment pending the final disposition of the case, except in aggravated cases.

If the discharged employe be a miner, the employment given under this clause will be in his regular working place; and if a day man, he will be given such employment
1435 as the management elects. If such employment takes a lower rate of wages than that at which he was employed at the time of his discharge and a final decision of the case be in his favor, he will be paid in the final compenstation and adjustment of the case at the same rate of wages he was receiving at the time he was discharged.

3. In order that no disputes will arise, it is hereby agreed that the foregoing paragraph of this section shall be construed that day men shall receive the scale wage for the work at which they were employed when suspended, and miners $2.97 per day.

4. When the foreman, as provided for in Paragraph 1 of this section, directs an employe to do labor, the scale of wages being lower than his regular scale, he shall be paid the wage scale as paid for labor from which he was transferred, during the time employed.

[Suepension] Of Mining.

Section 5.

1. In case of either local or general suspension of mining, either at the expiration of this contract or otherwise, the engineers shall not suspend work, but shall, when mining is suspended, fully protect all the company's property under their care, and operate fans and pumps and lower and hoist such men or supplies as may be required to protect the company's property, and any and all coal required to keep up steam at the company's coal plants. But it is understood and agreed that the operator will not ask them to hoist any coal [producted] by non-union labor for sale on the market. Should the interest of the engineers be directly involved in any issue at the expiration of this contract, and any engineers cease from work, the United Mine 1436 Workers of America will provide competent men to perform the emergency work recited at the scale price in effect at the time of the suspension, subject to any subsequent settlement. The operator, at his option to retain only such engineers as are required, but with the understanding that all of the engineers employed at the time of the suspension shall be entitled to an equal division of the work.

2. It is hereby understood and agreed that all mines in Districts 14, 21 and 25, not in operation on March 31st, 1910, by reason of strikes or otherwise, shall resume operations without prejudice or interference at the conclusion and ratification of this agreement.

Local Demands.

Section 6.

1. There shall be no demands made locally by either operators or employes which are in conflict with this agree-

ment, or any District agreement, and there shall be no provisions imposed violating the same.

2. If any miner or any substantial part of a mine is laid idle or shut down in violation of this contract by any operator or any agent of any operator, such operator shall pay to the mine workers employed in said mine, which are thereby laid idle, the sum of one dollar per day for each of such mine workers for each day or part of a day which said mine is so laid idle, which sum shall be added to the regular pay account of each of said mine workers and be paid him with such regular account.

3. If any mine or and substantial part of a mine is shut down or laid idle in violation of this contract by any local union, member or members of any local union, pit
1437 committee, check-weighman, or other or different officer or officers or committee of the U. M. W. of A., said operator may withhold for his or its own use from any fund checked off by him or it from the wages of the employes at said mine and otherwise payable by said operator to the officers of the local union having jurisdiction over the workmen at said mine, a sum equal to fifty cents per day per man for all the United Mine Workers who are so idle at said mine for each day or part of a day such mine or substantial part thereof is so shut down or laid idle.

4. Any question or disagreement as to any such shut down or the laying idle of any mine being in violation of this contract and the rights of the injured party to the indemnity or penalties hereby prescribed, shall be determined and finally settled as other disagreements are provided to be settled by Section 1 of this agreement. But no indemnity or penalty above provided shall be withheld or paid to the party entitled thereto until any disagreement concerning the same has been so finally determined, except where any mine worker leaves the employ of the company, in which case the company may deduct the penalty from such mine worker's wages before paying him, and in the event the case is not finally sustained, then any penalty so collected from such mine worker's leaving the employ of the company will be remitted to the local union having jurisdiction at the mine affected and by it paid to the parties from whom it was originally collected.

Payment of Wages.

Section 7.

1. The operators agree to pay twice a month, the dates of payment to be left as at present; and these payemnts are to

be made at the office nearest to the mine wherein or at
1438 which the employes are employed; provided, however, that this office shall be located not more than two miles from such mine.

2. Any employe wishing to leave the service of an operator shall, upon giving the mine foreman three days' notice of his intention to do so, receive all money due him within twenty-four hours after he has left the service of an operator; provided, that not more than 10 per cent of the employes shall avail themselves of said right in any one week.

Check-off.

Section 8.

1. The operator will recognize the pit committee in the discharge of their duties as provided for in this agreement, and agree to check off all dues, assessments, fines and initiations from all miners and mine laborers when desired. In order to protect the companies, the U. M. W. of A. agree, when the companies so demand, to furnish a collective and continuous order authorizing the company to make such deductions. The companies agree to furnish the miners' local representatives a monthly statement, showing separately the amount of dues, assessments, fines and initiations collected. In case any fine is imposed, the propriety of which is questioned, the amount of such fine shall be held by the operator until the case is taken up and a decision reached.

2. All deductions for dues, assessments, initiations and fines shall be made through the company office upon statement made by the check-weighman or a duly authorized representative of the local union. It is understood that powder, oil and smithing shall have prior claim, and not to exceed one-half of the regular initiation fee shall be collected in any one pay.

3. It is agreed that the miners may employ a check-
1439 weighman to see that coal is properly weighed and a correct record made thereof, and when such check-weighman is employed the companies shall furnish him a check number, and he shall credit to his number such portion of each miner's coal as he may be authorized to do by the local union.

Drivers.

Section 9.

1. Drivers shall take their mules to and from the stables, and the time required in so doing shall not include any part of the day's labor; their time beginning when they reach the change at which they receive empty cars—that is, the parting drivers at the shaft bottom and the inside drivers at the parting—and ending at the same places; but in no case shall a driver's time be docked while he is waiting for such cars at the points named. The inside drivers, at their option, may either walk to and from their parting, or take with them, without compensation, either loaded or empty cars to enable them to ride. This provision, however, shall not prevent the inside drivers from bringing to and taking from the bottom regular trips, if so directed by the mine foreman, provided such work is done within the eight hours.

2. When the stables are located outside the mine the companies agree to deliver the mules at the bottom of the shaft in the morning and relieve the drivers of the mules at the bottom of the shaft at night.

3. When the day men go into the mine in the morning they shall be entitled to two hours' pay whether or not the mine works full two hours; but after the first two hours the men shall be paid for ever hour thereafter, by the hour, for each hour's work or fractional part thereof. If, for
1440 any reason, the regular work cannot be furnished the inside day laborers for a portion of the first two hours, the operators shall furnish other than the regular labor for the unexpired time.

Equal Term.

Section 10.

1. The operator shall see that an equal turn is offered each miner and that he be given a fair chance to obtain the same. The check-weighman shall keep a turn bulletin for the turnkeeper's guidance. The drivers shall be subject to whomever the mine manager shall designate as turnkeeper in pursuance hereof.

Measurements.

Section 11.

1. It is agreed that measurements of entries, brushing, room turning and dead work shall be made semi-monthly,

and payment in full shall be made for such work in the same manner as other work is paid for.

Condition of the Mine.

Section 12.

1. The company shall keep the mine in as dry condition as practicable, by keeping the water off the road and out of the working places. When a miner has to leave his working place on account of water, through the neglect of the company, they shall employ said miner doing company work when practicable, and provided that said miner is competent to do such work, or he will be given another working place until such water is taken out of his place.

Doctor.

Section 13.

1. No deduction shall be made for doctors unless
1441 such deduction is authorized by the individual employe.

Provisions for Injured.

Section 14.

1. The operator shall keep sufficient blankets, oil, bandages, etc., at each mine, and provide such suitable conveyance as is available to properly convey the injured persons to their homes after an accident.

Deaths and Funerals.

Section 15.

1. In the event of an instantaneous death by accident in the mine, employes shall have the privilege of discontinuing work for the remainder of that day only. Work, at the option of the operator, shall be resumed the day following and continue thereafter. In case the operator elects to operate the mine on the day of the funeral of the deceased, as above, or where death has resulted from an accident in the mine, individual employes may, at their option, absent themselves from work for the purpose of attending such funeral, but not otherwise. And whether attending such funeral or not, each member of the U. M. W. of A. employed at the mine at which the deceased member was employed, shall contribute fifty (50) cents and the operator twenty-five ($25) dollars for the benefit of the family of the deceased, or his legal representatives, to be collected through the office of the company. In the event that the mines are thrown

idle on account of the employes' failure to report for work in the time intervening between the time of the accident and the funeral, or on the day of the funeral, then the company shall not be called upon for the payment of the twenty-five ($25) dollars above referred to.

2. Except in cases of fatal accidents, as above, the
1442 mine shall in no case be thrown idle because of any death or funeral, but in the case of the death of any employe of the company or member of his family, and individual miner may, at his option, absent himself from work for the purpose of attending such funeral, but not otherwise.

Powder.

Section 16.

1. The price of powder during the life of this contract shall be $2.00 per 25-pound keg.

2. There shall be no other explosive than black powder used for shooting coal in the mines except upon the mutual consent of the pit boss and the mine committee, who may allow the use of other explosives in entries and slopes or places regarded as deficient and faulty.

Railroad Cars at Mines.

Section 17.

1. When an adequate number of empty railroad cars are at the mines at the starting time in the morning to work one-quarter day, and the operator has assurance from the railroad company that more cars will be placed at the mine before the emtpy cars already at the mine are loaded, then all employes shall go to work.

2. Whenever any operator may desire to mine and stock his coal, either in bins or on the ground, the employes shall go to work whether there are any empty railroad cars at the mine or not.

New Mines.

Section 18.

1. Where the development of a new mine is begun dur-
ing the period covered by this agreement, scale of
1443 wages covering the labor at such new mine will be the same as in other mines in the neighborhood.

2. Where a mine is being developed in a new part of the field where new conditions are encountered, a scale of wages

and rates will be made by the Commissioner for the operators and the District President for the miners.

Classes of Work.

Section 19.

1. The erection of head frames, buildings, scales, machinery, railroad switches, etc., necessary for the completion of a plant to hoist coal, all being in the nature of construction work, are to be excluded from the jurisdiction of the U. M. W. of A. Extensive repairs to and rebuilding of the same class of work shall also be included in the same, provided that any or all members of the U. M. W. of A. who may be employed at such work shall not be asked to work in conflict with the terms of this agreement.

2. It is further agreed that the reloading of coal that has been mined and unloaded on the ground shall be exempt from the jurisdiction of the U. M. W. of A.

Duties of Pit Committee.

Section 20.

1. The duties of the pit committee shall be confined to the adjustment of disputes between the pit boss and any member of the U. M. W. of A. working in and around the mines, arising out of this agreement or any district agreement made in connection therewith, when the pit boss and said miner or mine laborer have failed to agree.

2. In case of any local trouble arising in any mine through such failure to agree between the pit boss
1444 and any miner or mine laborer, the pit committee and the pit boss are empowered to adjust it, and in the case of their disagreement it shall be referred to the state Coal Operators' Association and the District President of the U. M. W. of A. for adjustment; and all cases the mines, miners, mine laborers and parties involved must continue at work pending an investigation and adjustment, as provided for in Section 1.

3. If any day men refuse to continue at work because of a grievance which has not been taken up for adjustment in the manner provided herein, and such action shall seem likely to impede the operation of the mine, the pit committee shall immediately furnish a man or men to take such vacant place or places at the scale rate, in order that the mine may continue at work, and it shall be the duty of any member or members of the United Mine Workers who may be called upon by the pit

boss or pit committee to immediately take the place or places assigned to him or them in pursuance thereof. Provided that this parapraph shall not prevent the enforcement of the other penalties herein provided for.

4. The pit committee, in the discharge of its duties, shall under no circumstances, go around the mine for any cause whatever, unless called upon by the pit boss or by a miner or company man who may have a grievance that he cannot settle with the boss. Any pit committeeman who shall attempt to execute any local rule or proceeding in conflict with any provision of this contract, or any other made in pursuance
1445 hereof, shall be forthwith deposed as committeeman. The foregoing shall not be construed to prohibit the pit committee from looking after the matter of membership, dues and initiations in any proper manner. The pit committeeman shall be elected to serve for one year unless deposed for cause.

5. Members of the pit committee employed as day men shall not leave their places of duty during working hours except by permission of the operator, or in cases involving the stoppage of the mine.

Expiration.

Section 21.

1. It is agreed that negotiations for a new contract shall commence thirty days prior to the expiration of this contract.

It is further agreed that if at the end of thirty days after the expiration of this contract a completed contract has not been agreed to, then the disputed joints shall be submitted to the Executive Committee of the Operators' Association and an equal number of the members of the District Executive Boards of Districts 14, 21 and 25 of the United Mine Workers of America. It is further agreed that if said Executive Boards disagree within the next thirty succeeding days, then, at the option of either party hereto, the mines may cease operations.

2. It is expressly understood and agreed that during all such [negotions] the mine workers shall continue at work and the new contract shall be retroactive to the expiration of this contract.

Obligations.

Section 23.

1. All the provisions and terms of this contract are hereby mutually agreed to by and between all the operators,
1446 members of the Southwestern Interstate Coal Operators' Association and all the miners of Districts 14, 21

and 25, and signed by the representatives of the parties hereto who have been duly authorized to execute the same on behalf of the Southwestern Coal Operators' Association and on behalf of Districts 14, 21 and 25 of the U. M. W. of A. respectively.

2. That the next interstate joint conference meet in Kansas City, Mo., thirty days prior to the expiration of this contract, in accordance with the provision in that respect in Section 22, entitled "Continuation Clause."

In behalf of the Southwestern Interstate Coal Operators' Association:

JAMES ELLIOTT, President.

E. R. SWEENEY,
Vice-President at Large.

J. H. HIBBEN, Secretary.

In behalf of the United Mine Workers of America:

P. R. STEWART,
President District No. 21.

CHAS. BATLEY,
President District No. 25.

ALEX HOWAT,
President District No. 14

1447

Contract.
for
District 14.
U. M. W. of A.

Adopted at Kansas City, Mo., Sept. 19, 1910 for the period ending March 31, 1912.

Scale of Wages and Conditions to Apply in District 14—Cherokee and Crawford Counties, Kansas, and Barton County, Missouri.

This contract, made and entered into between the United Mine Workers of America of District 14, parties of the first part, and the Southwestern Interstate Coal Operators' Association, parties of the second part, agree to the following prices and conditions:

Article 1. That in Cherokee and Crawford Counties, Kansas, and Barton County, Missouri, the price for shooting and loading pick-mined coal shall be 75 cents per ton of 2,000

pounds of mine run coal. Mine run coal shall be free from slate, dirt, bone, sulphur, blackjack and other impurities.

Article 2. That the uniform price for dead work shall be as follows:

Entries 6 feet wide $1.78
Entries 12 feet wide 1.19

Cross-cuts between entries shall be paid the same price per yard as is paid for entries of the same width. If the pillar between the entries at the point where cross-cut is driven is in excess of twenty feet in thickness the miner will be
1448 entitled to a switch in the cross-cut after having driven the same, or any part of it, twenty feet into the pillar.

Top brushing, 95 cents per yard for 5 feet above each rail.

Top brushing, $1.07 per yard for 5-½ feet above each rail.

Top brushing $1.19 per yard for 6 feet above each rail.

When hard rock brushing is necessary to be done the regular brushing price shall not apply, but the compensation for the same shall be mutually agreed upon between the miner and mine foreman.

These prices to apply to top brushing in all entries and rooms.

Bottom brushing, [1.25] per yard for 5 feet above the rails.

Bottom brushing, $1.48 per yard for 6 feet above the rails.

All bottom brushing to be 5 feet wide at the bottom.

These prices to apply to bottom brushing in all entries and rooms.

Horse backs, $1.19 per foot, 6 feet wide and normal height of vein in the mine.

Stowing dirt, 12 cents per car, 59 cents per yard.

For turning rooms, $2.37 when the room neck is 6 feet.

For turning rooms, $3.56 when the room neck is 9 feet.

For turning rooms, $4.75 when the room neck is 12 feet.

The width of room necks shall be from 7 to 9 feet, as directed by the mine foreman. If driven 2-½ feet or more in excess of the width directed by the mine foreman, or if driven over 13 feet in width by his direction, one-half of the price of room turning as above specified shall apply.

When by reason of horsebacks or other unavoidable ob-
1449 stacles rooms cannot be driven 12 feet or more in width, yardage shall be paid. If less than 12 feet and more than 6 geet in width the price per yard shall be proportionate to the price paid for entries.

Miners to properly timber their places and keep the same safe, secure and in a good workmanlike condition where they have worked out coal therefrom. They shall promptly and properly reset all props blown out by shots.

Miners shall make cross-cuts between rooms in the manner directed by the mine foreman. The first cross-cut between rooms shall be paid for at the same rate per yard as is paid for entries of the same width.

Article 3. The price for making the wall or walls for rooms through gob shall be $1.78. The width between the walls to be specified by the mine foreman.

Article 4. No miner shall cut horsebacks, drive cross-cuts, stow dirt, or do any dead, yardage or deficient work except upon and by direction of the mine foreman. Provided, where minor troubles, such as small falls, slips, rolls, etc., which involve a small amount of compensation occur, the miner and mine foreman may have an understanding to do such work without previously referring each particular case to the mine foreman.

Bates and Vernon Counties, Missouri.

Article 1. That in Bates and Vernon Counties, Missouri, the following prices for shooting and loading pick-mined coal per ton of 2,000 pounds of mine run coal, free from slate, dirt, bone, sulphur, blackjack and other impurities shall be:

Coal 4 feet or over in thickness, 65 cents.

1450 Coal 3 feet 6 inches thick and less than 4 feet in thickness, 70 cents.

Coal 3 feet 6 inches thick and less 75 cents.

Entries 6 feet wide, $2.37 per yard.

Entries 12 feet wide, $1.78 per yard.

Top brushing, 89 cents per yard for 5 feet 2 inches above the rails.

Bottom grading from 6 to 12 inches in thickness shall be 59 cents per yard; and for each additional 6 inches in thickness 30 cents per yard.

When less than 6 inches in thickness the price is to be determined between the mine foreman and miner.

Room turning, the prices and conditions shall be the same as in Crawford and Cherokee Counties, Kansas.

Article 2. The same prices shall be paid for bottom grading in rooms as is provided for in entries.

The price for removing bone coal, or rock, shall be determined by the mine foreman and the miner.

Article 3. That rooms shall be 24 feet wide when the roof will permit, the mine foreman to be the judge of conditions.

In no case shall two men be required to work in a room less than 16 feet wide.

Article 4. The same rules and customs in regard to crosscuts, draw slate and rolls in rooms in Cherokee and Crawford Counties, Kansas, shall also apply to these counties.

Day Wage Scale.....District No. 14.

Inside Day Wage Scale.

	Track layers	$2.70
	Track Layers' helpers	2.49
1451	Trappers	$1.19
	Bottom cager	2.70
	Drivers	2.70
	(For each additional mule 10.6 cents extra.)	
	Trip riders	2.70
	Pushers	2.70
	Water haulers and machine haulers	2.70
	Timbermen, where such are employed	2.10
	Pipemen for compressed air	2.64
	Company men in long wall mines	2.49
	All other inside day labor	2.49
	Spragging, coupling and greasing, when done by boys	1.85
	Shot firers	3.17
	Digging coal by day	2.97
	Air men	2.70
	Shaft sinkers	2.97

Motormen shall be advanced in wages 5.55 per cent over prices paid prior to March 31, 1910.

Outside Day Wage Scale.

First-class blacksmiths	$3.17
Second-class blacksmiths	2.90

Blacksmiths' helpers	2.49
Carpenters	2.56
All other outside day labor	2.14
Operator of incline rock dump hoist	2.23
Night fireman	2.14

1452 At mines which incline rock dumps are used the optrator of such incline rock dump hoist shall, when not operating said dump, do whatever work he may be directed to do by the mine foreman or other person in charge.

Night firemen shall, if requested, lower and hoist shot firers or any other men employed in the mine, in the absence of the regular engineer, and will perform such other duties as the mine foreman or other person in charge may direct.

Scale For Engineers.

Engineers, first class, 500 tons and over, $83.38 per month.

Second class, 300 tons to 500 tons, $77.05 per month.

Third Class, 300 tons or less, $68.60 per month.

The minimum rate for tail rope and slope engineers shall be $2.51 per day or $65.44 per month; provided, further, that the maximum rate for tail rope and slope engineers shall be $2.85 per day or $73.88 per month, 26 days to constitute a month's work, and nine hours to constitute a day's work. All overtime in excess of nine hours to be paid for at a proportionate rate per hour.

The mining prices inside and outside day wage scale (except engineers), provided for in this contract is based on an eight-hour work day.

Pleasanton District.

Article 1. The change contemplated by the operators in the Pleasant field from a shooting coal, mine run, long wall system, to a mined face, breaking coal system, with the use of powder eliminated where not absolutely necessary, the mine foreman to be the judge of the necessity, is
1453 agreed to; provided the change be made by day work, and when the mine or a reasonable portion of the mine is brought into good working condition, the operator to be the judge, an investigation shall be made by a commission composed of one member of the District Board, one representative of the Southwestern Interstate Coal Operators' Association, one member of the Local Union selected from the Pleasanton miners, and one representative of the opera-

tors in the Pleasanton field. These four men shall constitute the commission to agree upon and fix a scale rate for mining under the system contemplated, and begin its investigation upon the day set by the commissioner of the Southwestern Interstate Coal Operators' Association. They shall make their investigation and findings within ten days after the date set as above by the commissioner for the operators. If at the expiration of such ten days they are unable to agree, then the arbitrator, board or system provided for in Section 1 of the Interstate Agreement shall immediately be called upon to decide any points in this connection, upon which the commission does not agree, and the selection of such arbitrator and his findings, which shall be made within five days, shall be accepted and agreed to by both parties and written into the contract as the mining price for the Pleasanton District under the system of mining contemplated.

The Joint Committee recommends that the commission consider the net earnings per ton of the miner under the old system in fixing the tonnage price under the new system of mining.

Article 2. Turning rooms, $3.56 each.

Rooms to be considered turned when crib and first wall are in and brushed to within three feet of the face of the coal, the company to build the crib. If the miner
1454 builds the rib, 53 cents shall be paid for such service.

Article 3. Entry brushing $1.95 per yard. Brushing to be six [veet] above the rails and six feet wide at the top.

Local Conditions.

Article 1. The miner or loader shall not send out dirt, slate, sulphur or blackjack if he has room in which to gob the same in his working place, without the consent of the mine foreman or person in charge. He shall build all roadway walls and keep his place in good condition. If any miner shall neglect to keep his place in condition as above described, he shall have his turn stopped until he complies, and in case he persistently neglects to keep his place in condition as agreed, he shall be subject to discharge.

Article 2. The width of rooms shall not be less than 35 nor more than 40 feet from center of roadhead to center of roadhead, or from march to march.

Rooms shall be driven to length of 150 feet from the point of the room cog on the entry, and after having reached such distance will be declared to have been driven up.

Article 3. Any miner desiring to leave the employ of the company shall build his road way walls and prop his working place in a good and workmanlike mannner, before leaving the same, and under no conditions shall he leave his brushing or buildings more than three feet from the working face. Failure or refusal to carry out the above provisions the mine foreman or person in charge shall have the right to put a man in said place to properly brush, build and secure the same as provided above, and shall deduct
1455 from any wages due or that may be due the said miner or loader the amount of money necessary to cover the expense of putting said place in proper condition.

Article 4. In case the company at any time during the life of this contract desires to make a machine scale for the Pleasanton District, said scale shall be made by the Local Scale Committee for the operators and the District Executive Board of the United Mine Workers of America for the miners. Said scale to be effective upon the approval of the Executive Committee of the Southwestern Interstate Coal Operators' Association within fifteen days after notification of such desire on the part of the company, which machine scale for machine runners and helpers and loaders after machines shall be [ar] the same ratio to the pick mining price for this district as the machine mining scale in Cherokee and Crawford Counties, Kansas, and Barton County, Missouri, for machine runners, helpers and loaders, bears to the pick mining price in those counties, and that all general conditions, day wage scale and general interstate provisions applicable to the machine mining scale in Cherokee and Crawford Counties, Kansas, and Barton County, Missouri, will be made applicable to the Pleasanton District.

Osage County Scale.

Article 1. That in Osage County, Kansas, the price for pick mined hand picked coal per ton of 2,000 pounds, free from slate, dirt, bone, sulphur and other impurities, shall be as follows:

Osage City .....$1.65 per ton
Burlingame ..... 1.60 per ton.
1456 Scanton .....$1.60 per ton.

Provided, however, that hand picked coal will not be construed to change present conditions.

Article 2. That room turning be paid $6.33 as a uniform price for Osage County, miner to put away dirt. That the

distance of room turning shall be twelve feet from the corner of the rib of said room, and no room shall be considered turned until such distance is obtained. All yardage beyond the specified distance of twelve feet shall be paid at the rate of $1.58 per yard.

Article 3. All gob entries shall be paid at the rate of $1.78 per yard. Said entries to be 4½ feet wide and 3½ feet high.

For narrow entries 5 feet wide and 3½ feet high, $2.20 per yard.

For entries 14 fee wide, $2.08 per yard, the miner to have the coal.

For one-sided entries, the price to be $1.48 per yard, the miner to have the coal.

Article 4. That rib room turning be paid the same as other room turning.

Article 5. That all rock brushing shall be paid at the rate of $1.06 per yard if one foot in thickness, and 53 cents for each additional 6 inches, help to be furnished by the company when drilling in rock.

Article 6. Cutting corners in rooms where rooms are full width, 59 cents per yard.

Article 7. That whenever a mine foreman desires two
1457 men to work together in one place, they shall be paid 16 cents extra per ton above the regular mining price, provided it is not the fault of the miner working in said place, or his inability to keep up the working face.

Article 8. Where shooting is necessary, the company to be required to furnish drilling machines and other necessary materials for blasting, and that such necessities shall be delivered at the miner's platform or switch.

Article 9. That no room be driven over 185 feet without extra pay for pushing, said extra pay to be determined by mine foreman and miner, and that any steep pushing, the driver or pusher shall be required to assist in pushing.

Article 10. That mule brushing shall be contracted when desired. The price to be agreed upon by the mine foreman and the parties doing the work.

Article 11. All deficient work shall be paid extra, the price to be determined by the mine foreman, miner or the

miners affected, but should they not agree, then the price shall be determined by the mine foreman and pit committee.

Article 12. It is hereby understood and agreed that all coal shall be accepted at the miner's switch or platform.

Article 13. Miners shall at no time load or run dirt to the driver, if he has room in his place to gob it, without the consent of the mine foreman, provided the distance to his march is not in excess of eighteen feet from his road wall.

Article 14. That whenever a room or entry caves in
1458 or abnormal conditions exist, the operator shall take the dirt at miner's switch or platform, and the miner's turn for coal shall not be affected thereby.

Article 15. Where the blacksmith is hired by the company to sharpen tools for the men, the charges will be 1 per cent. When men sharpen their own tools no charge shall be made.

Article 16. Weighman, at mines that are not loading over 150 tons of coal per day, may be required by the mine foreman to do other work in addition to his duties as weighman.

Article 17. Rooms shall be turned off the entries at a distance not to exceed forty feet from center to center of room mouths.

Article 18. Extra pay of 6 cents per ton for coal mined in rooms and main entries for brushing three and one-half feet high and four feet wide in Osage County only.

Tonnage Scale For Machine Mining For District No. 14.

It is agreed by both committees that there shall be a commission selected, to be composed of two for the miners and two for the operators, whose duties shall be to take up and fix a machine mining rate per ton for the machine runners, helpers and loaders; and that the members of this commission shall be selected before this contract is signed; that they shall proceed on the date set by commissioner to make their investigation, and arrange the scale mentioned immediately upon resumption of work at the mines affected by this contract.

1459 In the event of the failure of the aforesaid commission to agree upon a scale within ten days after beginning of their investigation at the mines, as above specified, they shall select a fifth man, whose decision shall be final, and in the event of their failure to agree upon a fifth man within

five days, they shall then accept as the arbitrator the person, agency or method prescribed in Section 1 of General Provisions of the Interstate Agreement for Districts Nos. 14, 21 and 25.

The same commission, it is also agreed, will in the same manner fix the proportion of cars which loaders after machine are to have, compared with the number of cars given pick miners, inserting their decision in the proper place in Article 3 under Working Conditions Machine Mined Coal Tonnage Basis.

Working Conditions Machine Mined Coal Tonnage Basis.

Article 1. The loaders are to furnish their own tools and powder, and be subject to the direction of the mine foreman or person in charge, in the performance of their duties.

Article 2. It is agreed that the operator at any time is to have the privilege of changing any or all [placew] from machine mining to pick mining, or from pick mining to machine mining.

Article 3. It is agreed that loaders after machines shall have turn with pick miners in the ratio of ..... cars to .....cars.

Article 4. The price for blacksmithing shall be 1 per cent of the gross earnings.

1460 Article 5. To insure clean, marketable coal, the same rule applying to pick miners to govern loaders after machines.

Article 6. If at any time it is deemed advisable by the operator to change from tonnage to day wage basis, or from day wage basis to tonnage basis under machine mining, he shall have the right to do so.

Article 7. The operator shall have the right to work a night shift for cutting coal with machines.

Article 8. All machine men shall work on idle days at operator's option, to make up the time lost on previous working days.

Article 9. When a machine runner or any other employe upon whose work other employes of the mines are depending absents himself from duty without giving advance notice, when possible, to the mine foreman, he is subject to discharge.

Article 10. Where machine runner leaves rolls or bottom coal in the bottom, they or it shall be taken up at the machine helper's and runner's expense. The cuts shall be continuous and no partitions left between cuts.

Day Wage Scale for Machine Mining.

Article 1. In case operator elects to operate his mine wholly or partially on day wage basis, the following prices are to be paid:

For machine runners	$3.17 per day
For machine runner's helpers	2.90 per day
Loaders after machines	2.70 per day
1461 Hand drillers and shot chargers after machines	$2.70 per day
Drilling machine runners	2.70 per day
Pipe men	2.64 per day

Article 2. It shall be the duty of the machine runners and helpers, in addition to their regular work, to perform any other labor in or about the mine as directed by the mine foreman or person in charge.

Article 3. The method and manner of operating machines shall be under the direction of the mine foreman or person in charge.

Article 4. Loaders by day or ton after machines shall load all coal and brushing dirt or rock, same to include any necessary pick work to dislodge any hanging coal, brushing dirt or rock, loosened by coal or brushing shot. They shall when directed by the mine foreman or person in charge, keep their working places timbered and do any and all work ordinarily performed by the pick miner except cutting coal at the face.

Article 5. It shall be the duty of the drillers to drill all coal or brushing holes, whether by hand or power drills, as per scale of wages above shown, at the direction of the mine foreman or person in charge.

Article 6. Drillers regularly employed as such shall do any other labor about the mine as directed by the mine foremon or person in charge, provided if it is a class of work carrying a lower rate the driller rate shall apply.

1462 Article 7. It is agreed that the operator may, at his option, operate his mine wholly or partially on a tonnage basis.

General Provisions.

Article 1. That the bi-monthly paydays shall fall on the second and fourth Saturdays of each month.

Article 2. That all timbers and rails shall be delivered when necessary at the working switch on the entry.

Article 3. That the color line shall not be a bar to employment.

Article 4. That the check weighman shall have a check number to receive his pay, the same as miners.

Article 5. When entry or horseback dirt is wheeled or pushed, extra compensation shall be paid when it is required to wheel or push same over 126 feet. This provision applies in Cherokee and Crawford Counties, Kansas, and Barton County, Missouri.

Article 6. In opening new mines the work shall be done by the day, by the cubic yard or by the ton at the option of the operator and the price per cubic yard for the coal shall be the price per ton under the scale. If by the day, the price for all classes of underground work shall be $2.70 per day, including loading of coal, brushing, timbering, ditching, and all other work necessary to be done in the making of the bottom, except the men required to drill, shear or shoot the coal, whose wages shall be $2.97 per day. This rule to apply until after the first four cross entries on each side
1463 of the bottom of the shaft and air connections with the same are made.

Article 7. That when a miner is prevented from work by reason of his switch not being laid in his turn, or through neglect of the Company, on [ir] the event of a fall of rock in his place for which he is not responsible under the terms of this contract, he shall notify the mine foreman, and if same is not remedied at the expiration of twenty-four hours he shall proceed as in Section 1 of the Interstate Agreement; and provided further, that if any miner or mine laborer absents himself from work for more than one day without a justifiable cause the operator shall have the right to fill such vacancy.

Article 8. The price of blacksmithing shall be 1 per cent of the gross earnings of the miner, check weighman or other person who may have coal credited to him or them on the weighman's bulletin.

Article 9. That the scale rate of blacksmith at mines where construction work is being done shall be that of a first-class blacksmith, and the scale rate of mine blacksmith at mines where sharpening tools and general mine repairs are being done shall be that of a second-class blacksmith, based on an eight-hour day.

Article 10. Blacksmith when called upon shall do any and all work in and about the mines which the mine foreman may direct him to do.

Article 11. All rolls below 3 inches, no compensation shall be allowed.

1464 All rolls 3 inches and over shall be left to the mine foreman and the man affected.

Where a series of rolls occur less than 3 inches, same shall be left to the mine foreman and man affected.

Article 12. The prices for draw slate shall be 26 cents per lineal yard where draw slate is 6 inches thick; 42 cents per lineal yard where draw slate is 9 inches thick; 58 cents per lineal yard where draw slate is 12 inches thick; 10.6 cents increase for each additional 3 inches in thickness. These prices are for draw slate when it is necessary for the miner to handle same across full width of room when room is standard width. A proportionate price per yard based on actual width of room where room is less than standard width. When draw slate is less than 6 inches thick the price to be determined by miner and mine foreman. (Except Osage.)

Article 13. That all road and sump coal be placed on a check number, and when wrecked cars are allowed they are to be deducted from the coal on such check number. At the end of each month the coal to be divided between the local union and the Company, two-thirds to the local union and one-third to the Company, Company to pay all labor in cleaning and loading such coal.

Article 14. Faulty coal in rooms shall be considered deficient work, and any miner employed to work the same shall be paid by the day, the Company to furnish the powder, or the man to be given another place, the mine foreman to determine whether the man is to be employed by the day or given another place. If the room is worked by the day

and the miner furnished his own tools, 10 cents per
1465 day additional shall be paid for the use of his tools.

Article 15. In all faulty entries it is hereby understood and agreed that the miner and mine foreman may agree upon a price to be paid for such work, and in the event of their being unable to agree upon such price, then the entry may be worked by the day or the miner given another place, the mine foreman to determine whether the miner is to be employed by the day or given another place. If the entry be driven by the day the operator will furnish the powder, and if, the miner furnishes his own tools will [oay] 10 cents per day additional for the use of such tools.

Article 16. When any employe quits or leaves his place of employment he thereby forfeits all right to claim his former or any other position in or about the mines.

Article 17. When the mine works and hoists coal a fractional part of the day, the Miners and loaders may remain in the mine at their option, and there shall be no local ruling affecting the same.

Article 18. The entrymen shall drive their entries by the sights put up by the operators. If they do not do so they shall straighten the entry at their own expense or be subject to discharge, at the option of the operator.

Article 19. Any fine or fines collected by the operator under the provisions hereof, the disposition of which are not otherwise specifically provided for, shall be paid to the party damaged.

Article 20. It is distinctly understood and agreed
1466 that the employes who were retained by the Company and did work during the suspension of the mining beginning April 1, 1910, shall continue work without prejudice and the U. M. W. of A. will not assess any fine or inflict any other penalty upon them.

Article 21. When two men are required to work together on the same shift in an entry, or when an entry is double-shifted, 30 cents per yard additional shall be paid, except in cross-cuts.

Article 22. Shot firers shall be paid at the rate of $3.17 per day, under normal conditions.

Conditions to Govern Shot Firers: Shot firers shall have but one job in mines employing 40 men or more, and no shot firer shall perform his duties while in the mine alone. Two

shot firers shall not fire shots for more than 80 men without extra compensation at the rate of 8 cents per place for each additional man.

The company reserves the right to determine the number of shot firers to be employed, except as above, provided the Company pays the shot firers the full amount of this scale.

Article 23. That there shall be a commission selected, to be composed of two for the miners and two for the operators, whose duties shall be to take up and fix a machine mining rate per ton for the machine runnners, helpers and loaders; that the members of this commission shall be selected before this contract is signed, and that they shall proceed at once to make their investigation and arrange the scale mentioned immediately upon resumption of work at the miners affected by this contract.

1467 In the event of the failure of the aforesaid commission to agree upon a scale within ten days after resumption of work at the mines, as above specified, they shall select a fifth man, whose decision shall be final; and in the event of their failure to agree upon a fifth man within five days they shall then accept as the arbitrator the person, agency or method prescribed in Section 1 of General Provisions of the Interstate Agreement for Districts Nos. 14, 21 and 25.

Article 24. It is hereby understood and agreed by the miners and operators of District No. 14 that all mines not in operation on March 31, 1910, by reason of strikes or otherwise shall resume operations without prejudice or interference at the conclusion and ratification of this agreement.

Article 25. That the price of nut coal for household purposes to employes, when bought by the head of the family, shall be $1.50 per ton at the mine for the entire year except where the mine is not making nut coal, mine run coal may be furnished at the same price. (Except Osage District).

Article 26. There shall be no unjust discrimination against any day laborers insofar as the work shall be as nearly as possible equally distributed, provided the parties are competent of doing the work, the mine foreman to be the judge of such competency.

Article 27. All half turns shall be furnished a check number.

Harnessing Mules.

1468 In regard to taking the mules into the mine where the mules are kept on top of the slope opening, the mules are to be taken to and from the tipple to the mouth of the slope. In shaft opening the mules are to be taken down and up the shaft by the Company, either by the drivers on the Company's time or by the Company employing a man to do so; and it may employ any man or number of men it chooses to do this work.

Where mules are kept in the mine, if the mules are harnessed by the Company, the drived must be at the pit bottom, or the parting where he commenced work, ready to begin at starting time. If the driver harnesses the mules, he does so on the Company's time.

In behalf of the Southwestern Interstate Coal Operators' Association:

JAMES ELLIOTT, President.
E. R. SWEENEY, Vice-Prest.-at-Large.
J. H. HIBBEN, Secretary.

In behalf of the miners:

ALEX HOWAT,
President Dist. No. 14.

ROBT. GILMOUR,
Sec'y-Treas. Dist. No. 14.

1469 Contract

for

District No. 21

U. M. W. of A.

Adopted at Kansas City, Mo., Sept. 19, 1910 for the period ending March 31 1912.

Prices for Mining in Oklahoma.

1. Colgate, Pittsburg, Pocahontas, Brewerville, Baker, Krebs No. 11, No. 5 and 7; Buck No. 6, Hartshorne, Haileyville, Gowen, Wilburton, Lutie, Turkey Creek, Witteville, Savanna, Adamson and Red Oak, per ton for mine run coal, 75 cents.

2. Alderson, Krebs No. 8, Carbon, Bache, Craig and Dow, per ton for mine run coal, 80-½ cents.

3. Lehigh, mine run, 75 cents per ton.

4. Bolen-Darnell, McAlester mines, mine run, 75 cents per ton.

5. Samples, McAlester mines, mine run, 75 cents per ton.

6. All entry, yardage and deficient work shall be paid 1908-1910 rate, plus 5.55 per cent advance, and the same rules and customs then existing in Oklahoma shall be continued in force during the life of this agreement.

Room and Pillar Scale—Midway.

In rooms, room necks and cross-cuts at Midway the prices shall be 83 cents per ton, mine run coal. Coal mined in entries and air courses, the price shall be 77 cents per ton, mine run. The price per ton at Midway shall cover all bot-
1470 tom taken up and the removal of top bony.

All yardage, entry and dead work at Midway, also the inside and outside day wage scale, to be paid 1908-1910 rate, plus 5.55 per cent advance.

The price for yardage and dead work at No. 7 Krebs shall be as follows:

Where coal is three feet eight inches and under, same yardage and dead work rates will be paid as No. 8 Krebs. Where coal is over three feet eight inches, same yardage and dead work rate will be paid as at No. 11 Krebs.

Prices on yardage and dead work paid 1908-1910 rate, plus 5.55 per cent advance. Room cross-cuts will be paid the same as air courses where they are cut.

Scale of Prices on Cross-Bars, Dirt and Deficient Narrow Work in Room Necks at the Mines on Atoka Track, excepting Midway.

Setting cross-bars, 35 cents, eight-foot bar. Loading dirt in cars, 28 cents per car. Air course yardage in rooms turned off the entry where top will not allow widening out. Where bottom is required to be taken up, entry prices shall be paid. One-half room turning price to be paid for widening out. Measurements to begin at entry and end at point of widening out.

Prices on clod at Bolen-Darnell and Samples' mines shall be paid for at the rates prevailing 1908-1910, plus 5.55 per cent advance.

The prices now in force at Wilburton to be as follows:

Scale of prices governing yardage at mines of the Great Western Coal & Coke Company, at Wilburton, Okla.:

For loading dirt and rock where same cannot be gobbed,
1471 32 cents per car.

For entry work where brushing is not required, $2.37 per yard.

Where brushing is required, it shall be paid for at the rate of 53 cents for 8 inches.

Air courses shall be paid for at the rate of $1.90 per yard.

Bottom brushing shall be paid for at the rate of 53 cents per yard, where it is taken up, for turning rooms.

The price of setting cross-bars shall be 30 cents per bar, under same conditions which have existed during past years.

Savannah Scale.

1. That the miners shall do all work ordinarily done in room work without additional compensation, with the exception of that which is already being done, viz.: Battery and Wing Boards.

2. That the miners shall carry a twelve (12) foot battery in each and every room, but shall have the privilege of drawing the battery four (4) feet below the lower rib of the cross-cut or break-through, after cross-cut or break-through has been finished.

3. That the cross-cuts or break-throughs shall be made and driven as directed by the mine foreman or superintendent, and shall be paid for at the rate of $1.91 per yard.

4. That all coal shall be loaded by the miners and paid for at the rate of seventy-five (75) cents per ton, mine run coal.

1472 5. The miner shall keep his working place well timbered and the traveling ways on both sides of the battery open.

6. In case a miner desires to leave the service of the Company, and his place is in good working condition, the Company will purchase the coal in the battery, and shall pay for the same at the rate of one dollar and sixty-four ($1.64) cents running yard, and the same shall be deducted from the next miner taking the room. This is in case the battery is twelve (12) feet wide.

Electric Chain Machine Scale.

Loaders for chain machines are to receive 47 cents per ton in all classes of working places.

Runners are to receive 6 cents per ton; helpers are to receive 5 cents per ton.

Loaders are to do all work now done by pick miners, except cutting coal. This includes taking up the same amount of bottom [unxer] the same conditions as apply to pick miners. Loaders are to furnish their own explosives, drill and prepare the shots.

The operator has the option of having the coal loaded on the day wage rate if he so elects, this rate to be $2.70. No loader will be employed on the day wage scale where it is practicable to employ him on the tonnage rate.

Yardage Machine Work.

Yardage and room turning to be two-thirds of the price paid for pick yardage and room turning, one-half of which is to be paid to the loader and one-half to the machine men. These working places will be assigned to two loaders where
1473 possible.

Oklahoma Puncher Machine Scale.

1. This includes [al,] classes of puncher machines.

2. Cutting in all classes of working places shall be 16-½ cents per ton, to be divided as follows:

Runners	8-½ cents per ton
Helpers	8 cents per ton
Loaders	47-½ cents per ton

Loaders to furnish explosives and do all other work done by a pick miner except cutting.

If the machine men cut up to their coal at any time, the machine crew can load out the coal and clean up the place, the same as a loader, and check the coal out to their credit equally.

Yardage.

Yardage and room turning to be two-thirds of the price paid for pick and yardage and room turning, one-half of which is to be paid to the loaders and one-half to the machine men.

Henryetta Scale.

Room and Pillar Mines—Shooting Coal.

Mine run coal 80-½ cents per ton, mining price to include the handling of cars between entry switch and face of room, when one man can push loaded car. When one man cannot push loaded car, driver or pusher to assist miner. Mining rate also includes the laying of track in rooms.

1474 Entries 12 feet wide or less, including brushing 5 feet high on top of rail, and 6 feet wide, $2.85 per yard. When required to brush 6 feet high above rail and 6 feet wide, $3.08 per yard.

All air courses and break-throughs where cut, $1.90 per yard when not brushed.

Room turning, 12 foot necks $5.93, 6 foot necks $2.96-½. Length of necks to be driven at the option of the operator.

Room and Pillar Mines—Mining Coal.

Price for [min9ng] and cutting coal on both ribs shall be same price per ton mine run coal as scale paid 1908-1910 plus 6 cents per ton. Said mining price includes also the doing of all work specified in the above scale for room and pillar mines—shooting coal. Under this plan no powder shall be used. Prices and conditions for entry work and air-course, break-throughs and room-turning to be the same as specified in above scale for room and pillar mines, shooting coal. Miners shall have the right to use powder in turning all rooms.

When entryman quits working place his brushing must be done to within sixteen feet of face.

No compensation will be paid for gob wall at air courses, cross-cuts, except where ordered to be built by mine foreman. Where gob wall is required to be built, the price for doing same is to be agreed upon by the mine foreman and the miners doing the work.

Miners in rooms to lay their own track. Miners in narrow work to lay temporary track, without compensation. Company to lay permanent track in narrow work.

1475 Where draw slate falls in entries it shall be paid for at the rate of 2.6 cents per inch per running yard, for each inch in excess of 2 inches for each five feet in width; except that no compensation for draw slate will be allowed for that part falling in the brushing or roadway width.

Where pit boss and miner agree on price for any certain work, this price shall be final, except where it conflicts with the terms of the contract.

Inside Day Wage Scale.

Fire boss	$3.21
Timbermen	2.70
Track layers	2.70
Track layers' helpers	2.49
Trappers	1.19
Bottom cagers	2.70
Drivers	2.70
Trip riders	2.70
Pushers	2.70
Water haulers and machine haulers	2.70
All other inside day labor	2.49
Spragging, coupling and greasing, when done by boys	1.81
Shot firers (under normal conditions)	3.17
Fire runners	2.70
Electric hoist operators for boys	2.11
Electric slope engineers	2.70
Motormen	2.70
Pump men (inside)	2.70
Head Machinist	3.27
Machinists	2.70

1476 "Boys" means those of maximum age of 19 years.

Day wages for digging coal	$2.96
Machine runners	3.17
Machine helpers	2.90
Shaft sinkers	3.21

Outside Day Wage Scale.

First blacksmiths	$3.17
Second blacksmiths	2.90
Blacksmiths' helpers	2.49
Carpenters	2.56
All other outside day labor	2.14

Scale for Engineers.

1. The prices for engineers in this contract are based upon nine (9) hours per day and shall be as follows:

2. First class engineers, hoisting five hundred (500) tons of coal and over per day, $83.38 per month.

3. Second class engineers, hoisting three hundred (300) tons of coal and less than five hundred (500) tons of coal per day, $77.05 per month.

4. Third class engineers, hoisting less than three hundred (300) tons of coal per day, $68.60 per month.

5. The minimum rate for [tall] rope and slope engineers shall be $2.51 per day or $65.44 per month. Maximum rate for tall rope and slope engineers shall be $2.85 per day or $73.88 per month.

6. Twenty-six (26) days shall constitute a month.

Any overtime in excess of twenty-six (26) days per month or of nine (9) hours per day, shall be paid for at pro-
1477 portionate rate.

General Conditions.

1. All break-throughs in Oklahoma shall be driven from six to eight feet wide, and paid for at the 1908-1910 rate, plus 5.55 per cent advance. All room break-throughs must be sheared through before being shot, measurement of break-through shall be average of both ribs.

2. All coal in Oklahoma under 2 feet 10 inches on the 80-½ cent rate be declared deficient.

3. All coal under 4 feet in height in Oklahoma, where bottom brushing has not been paid for in rooms, it shall be paid for at 2.4 cents per inch per yard to make the required height.

4. Where air courses are driven in chute or platform work, shall be considered as air courses, and shall be paid for at the regular district price, provided such air courses or break-throughs are cut or sheared before being shot.

5. The company shall put in all batteries, wing boards and platforms in all chute work in Oklahoma.

6. The miners shall load their own coal in pitching veins on this district at the regular scale price.

7. The taking up of bottom for stub switches for chute rooms will be done by the miner, and payment for same to be based on prices in effect 1908-1910, plus 5.55 per cent advance.

8. All company men shall receive an equal share of all work when competent to do such work.

9. Miners shall have the right to send out their dull tools on top of loaded cars and the company shall deliver same to

blacksmith's shop for sharpening, and no man be al-
1478 lowed to carry tools up or down shaft. In slopes the company shall deliver the same to parting or bottom. The company shall not be responsible for tools.

10. Any underground employe not on hand to go down to work at the hour for commencing work, shall not be entitled to go below, except at the convenience of the company.

11. When an employe is sick or injured he shall be given a cage at once. When a cage load of men come to the bottom of the shaft,who have been prevented from working by reason of falls or other things over which they have no control, they shall be given a cage at once. For the accommodation of individual employes less than a cage load, who have been prevented from working as above, cage will be run mid-forenoon, noon and mid-afternoon of each working day. Provided, however, that the foregoing shall not be permitted to enable men to leave their work for other than the reasons stated above.

12. The sinking of slopes and driving narrow work through faults shall be left to local union and mine management for adjustment.

13. All double shift places to be paid thirty (30) cents per yard extra.

14. All wet entries, rooms, slopes, slope air courses, and all other work connected with the slopes, shall be left to local union and superintendent or manager for agreement of price.

15. Frozen or seamy coal, stuck top or bottom, shall be deficient work, and shall be paid for extra, the same to be determined by mine committee and pit boss. If they fail to agree the miner shall be given an average place in the mine.

16. Where pit committee desires to test scales, such
1479 test shall be made before or after working hours, except in cases of emergency.

Scale Price for Blacksmithing Miners' Tools and Machine Mine Tools.

17-a. Three fourths of 1 per cent on gross earnings for blacksmithing of miners' tools and three-eighths of 1 per cent on gross earnings for machine coal loaders' tools.

17-b. All sharpening and repairs of tools shall be done as promptly as possible.

18. The present conditions in regard to double and single work shall prevail.

19. Any employe absenting himself from work two days, and not reporting for work on the morning of the third day, shall forfeit his right to his working place, unless excused by mine foreman, but shall be given another place on turn; provided, however, this shall not apply in case of sickness.

20. Where a fall occurs in any working place the company shall make preparations to clean up same within four hours from time of notice; failing to do so, the miner or miners affected shall clean up same, company paying at the rate of $2.70 per shift.

21. Price for moving all draw slate and rock, exceeding two inches in thickness, two and six-tenths cents per inch per running yard for each five feet in width, and all over and above to be paid accordingly. This applies to all mines, except where there is a special contract.

22. Where rooms are driven up narrow on account of bad top, the yardage shall be same as that in air courses, measurements to be made from the entry and when
1480 room is widened out, one-half room turning shall be paid. Where bottom is taken up, entry yardage shall be paid. This does not apply in rooms that have been widened out, then narrowed up and renecked, but in these cases the price shall be the 1908-1910 rate, plus 5.55 per cent advance.

23. When a car leaves working place it is in charge of the company, and average weight shall be paid for broken cars. Such cars shall be reported by the man that dumps the coal. The company shall keep all cars in good repair.

24. All coal four feet and over, where it comes down to under a thickness of three feet four inches, shall be declared deficient work.

25. When cars are delivered at the working face all timbers, props, and rails shall be delivered there. But in chute rooms, where in the judgment of the company, the pitch is too steep to take cars to the face, the miner shall, as a part of the work to be done by him, for the price of mining a ton of coal, carry such props as he may need from the entry to the face of his working place.

Powder.

26-a. The price of black powder during the life of this contract shall be $2.00 for a twenty-five pound keg.

26-b. Powder and other explosives to be purchased from the Operator exclusively, who will deliver it to the working place as provided by law.

26-c. The conditions relating to the use and sale of permissible explosives shall remain the same as those in effect March 31, 1910.

27. Where an operator desires to drive room necks 1481 of greater length than the standard, he will be required to pay scale price for room turning air course yardage for each yard in addition to the standard length, where bottom is not taken up. Where bottom is taken up he will be required to pay entry yardage for each yard in addition to the standard length.

28. No yardage will be allowed where rooms are used as entries or air courses. Except this will not apply where a room is driven for the purpose of developing other rooms and evading the payment of yardage.

29. In all brushing or draw slate paid for on the yard or inch per yard basis the rock shall be disposed of by gobbing or loading into cars by the miner, at the prices named, without any additional compensation. This applies only to mines represented by the Operators' Association.

30. The question of flat sheets and wing board in chute rooms, the same conditions shall continue in the various mines as existed during the life of last contract.

31. The price paid for mining the coal is to cover compensation for all other work done necessary to keep the working place in proper condition for the protection of person and property.

32. It is understood and agreed that the miner is required to keep his roadway in good condition from the entry switch to his working face, except that this will not apply in cases where a man takes a place partly worked out. In this case the miner will be responsible only for that part of the roadway he drives.

33. In the Lehigh Coalgate field any room wider than fifteen feet shall not be considered narrow work.

1482 Arkansas.

Prices for Mining in Arkansas and Eastern Oklahama, at Coal Hill, Alix, Denning, Bonanza, Jenny Lind, Greenwood, Excelsior, Hackett City, Montreal, Burma, Midland City, Huntington, Hartford, Bates and Peoria, Arkansas, and Sutter and Howe, Oklahoma.

1. The price for mine run coal shall be 65 cents per ton of 2,000 pounds.

Ouita.

1. For hand-picked coal, free from slack, slate, sulphur, bony and black jack, the price shall be as follows:

From the 1st of September to the 1st of March, $1.27.

From the first of March to the 31st of August, $1.12.

Spadra.

1. For screened coal per ton, from the 1st of September to the 1st of March, $1.07.

2. From the 1st of March to the 31st of August, 97 cents.

3. For mine run, 90 1/2 cents per ton of 2,000 pounds.

4. For all coal under three feet in height for each three inches less of coal, shall be 5 cents per ton additional to above prices.

5. The price for narrow work shall be as follows:

20 feet gob entries or air courses, per yard, $1.19.

18 feet gob entries or air courses, per yard, $1.32.

16 feet gob entries or air courses, per yard, $1.85.

1483 12 feet gob entries or air courses, per yard, $1.85.

8 feet entries or air courses, per yard, $2.11.

All brushing, 16 inches, per yard, $1.19.

And all over 16 inches, 7 cents for each inch extra.

The company shall have the right to do all brushing by shift work at $2.70 per day, when desired.

All cross-cuts in rooms shall be, per yard, $1.19.

All room turning shall be, per yard, $1.19.

The company agrees to pay 10 cents per ton for all coal coming from rooms over one hundred and fifty feet in length.

The price for hand rock in the Spadra field, excepting roadways in entries, shall be as follows: For all band rock over four inches in thickness up to eight inches in thickness shall be two cents per ton per inch, all band rock eight inches in thickness up to and including sixteen inches in thickness shall be two and one-half cents per ton per inch, measurements to be made at the face in three different places

The following prices for slopes and slope airways under normal conditions shall be:

Slope, 8 feet wide, 5 1/2 feet in height, per yard, $6.33.

Slope airways, 12 feet wide, per yard, $3.02.

All wet places shall be, per yard, 53 cents extra, and company to take care of the water.

The price for building gob wall shall be, per yard $1.19.

1484 Russellville.

1. Ten cents per ton less than the price paid at Ouita.

2. Entry, yardage and deficient work will be 1906-rate, plus 5.55 per cent advance. The same rules and customs defining deficient work in Russellville shall be in force during the life of this agreement.

Paris.

(Scale referred back to Paris)

Local Conditions.

1. The brushing price at Bonanza, Jenny Lind, Coal Hill and Denning shall be $1.48 for eighteen inches of brushing. Where the company requires more than eighteen inches to be brushed, they agree to pay eight cents per inch for each additional inch over eighteen inches.

2. Draw slate in air courses will be paid as follows:

For three inches or over, 26c.

For six inches or over, 53c.

For nine inches or over, 79c.

For twelve inches or over, $1.06.

3. All coal in Arkansas, two feet ten inches and less in height shall be considered deficient work, except where special price has been made.

All coal at Bonanza three feet and under shall be considered deficient work.

4. Scale of prices to be paid for draw slate and rock at mines at Burma and Montreal No. 2.

Over four inches and up to eight inches, 59 cents per yard. Over eight inches and up to 12 inches, 89 cents
1485 per yard. Over twelve inches, to be settled locally. Brushing entries to be $1.49 per yard.

5. Where bottom is taken up in rooms and room necks, it shall be paid 59 cents per yard. This applies to Burma only.

6. All cross-cuts in rooms when required to cut through, shall be paid at the rate of cross-cut yardage governings previous contract, plus 5.55 per cent. This applies to mines in Arkansas where cross cuts were not paid for during former contract.

7. Brushing bottom in entries, at Dallas mine, Burma, Ark., width of brushing to be four feet, height, four feet six inches on top of rail. All over and above this height and width to be paid at the rate of seven cents per inch.

8. (Agreement by D. A. Reed and J. E. Finney to refer same back to local union to arrive at settlement, and become part of this contract.)

9. Where miners at Coal Hill, No. 18 Jenny Lind, and Denning, Arkansas, have been pushing cars both ways the company shall assist the miner one way when necessary; and all miners in Oklahoma who have been pushing their cars both ways shall receive for all coal pushed over 200 feet, five cents per ton extra. The conditions that prevail at Lehigh apply to all mines on the Atoka Track in regard to lowering cars down to the switch.

10. That the loading rate of the McCurtain machine scale be extended over those mines in Arkansas which now carry 65 cents per ton mine run tonnage rate. Where punching machines are installed, in Arkansas, the McCurtain cutting rate to be adopted. Where chain machines are
1486 installed, in Arkansas, the rate for runners and helpers shall be established by the Commissioner and

District President, and in case of their failure to agree, the matter will be taken up in the manner provided for other controversies.

11. It is agreed that to set a price on taking up bottom at the Greenwood Coal & Lumber Company's mine at Greenwood that as soon as the management reports the mine free from water that the District President shall appoint a man to go to Greenwood and Mr. Wm. McKinley shall represent the Greenwood Coal & Lumber Company. They shall forthwith go to Greenwood to examine the mine. The President of the local shall furnish a man and the Company a man to take up bottom in the presence of these representatives. When they have ascertained by actual test the price that should be paid they shall write their findings and give one copy to President of the local and one to the company, and their findings shall be final. In case test is not made by measuring day, old price will be paid.

12. Central Coal & Coke Company mine, Hartford: Enty yardage, $2.57 per yard, finished entry. Room brushing, 32 cents per yard.

13. Sutter:

1. The mining price at Sutter shall be 65 cents per ton. Room turning to be $5.94.

2. All entry, yardage and dead work to be 1908 rate, plus 5.55 per cent.

3. All refuse matter thrown into [gov] shall not be loaded unless same shall be paid for. Rate of payment on such work to be agreed on by the company's representative and the pit committee. All coal shall be loaded the same as run mile coal in the Pittsburg Agreement, namely, every
1487 precaution shall be used to prevent the loading of dirt. The rule adopted by the Pittsburg Conference for the loading of impurities shall not apply to Sutter to impurities passed over the screen except where a miner does not use due caution or maliciously loads impurities.

4. Howe, Okla, shall be included in Scale District No. 2,

Inside Day Wage Scale.

Timberman	$2.70
Track layers	2.70
Track layers' helpers	2.49
Trappers	1.19
Bottom cagers	2.70

Drivers	2.70
Trip riders	2.70
Pushers	2.70
Water haulers and machine haulers	2.70
All other inside day labor	2.48
Spragging, coupling and greasing, when done by boys	1.85
Shot firers, under nomal conditions	3.17.

The fire boss shall receive $3.21 per day, and shall be subject to discharge by the management of the mine without appeal; if competent, shall be given other work.

The fire runner shall receive not less than $2.70 where such is employed.

Electric Hoist Operators:	Per day.
For boys	$2.11
Electric slope engineers	2.70
1488 Motormen	2.70
Pumpmen (inside)	2.70
Head Machinist	3.27
Machinist	2.90

"Boys" means those of maximun age of 19 years.

Day wages for digging coal	$2.97
Machine runners	3.17
Machine helpers	2.90
Shaft sinkers	3.21

Outside Day Wage Scale.

First blacksmiths	$3.17
Second blacksmiths	2.90
Blacksmiths' helpers	2.49
Carpenters	2.56
All other outside day labor	2.14

Scale For Engineers.

Steam locomotive engineers on outside work shall receive 32 cents per hour.

Engineers, first class, 500 tons and over, per month	$83.38
Second class, 300 to 500 tons, per month	77.05
Third [claas] 300 tons or less per month,	68.61

The munimum rate for [tall] rope and slope engineers shall be $2.51 per day, or $65.44 per month; provided, further, that the maximum rate for [tall] rope and slope engineers

be $2.85 per day, or $73.89 per month. Twenty-six days to constitute a month's work and nine hours to constitute a day's work. All overtime in excess of nine hours to
1489 be paid for at a proportionate rate per hour.

The mining prices, and outside day wage scale (except engineers), provided for in this contract, are based upon an eight hour work day.

General Conditions.

1. It is agreed to renew the contract expiring March 31st, 1910, for District 21, except where local and district provisions and conditions already agreed to by the miners and operators conflict with the general interstate provisions that may be agreed to by miners and operators at his conference. All point decisions made in connection with the aforesaid agreement are confirmed.

2. No person employed under ground shall use an inferior grade of lard oil, and the use of any other except lard oil is prohibited. Rope riders in mine slopes are excepted.

3. Where coal is screened before being weighed it shall be dumped on flat sheets and passed over the screen specified in the Pittsburg Agreement, and there shall be no obstruction on said screen.

4. All company men shall receive an equal share of all work when competent to do such work.

5. The gas men shall place marks at last inside breakthrough, showing clearly whether there is any standing gas in working place. Should there be standing gas, he shall gas mark at room neck in addition to mark at inside breakthrough; but should working place be clear, he shall place marks so indicating this at coal face. No miner shall be permitted to brush out gas.

6. Miners shall have the right to send out their dull
1490 tools on top of loaded cars and the company shall deliver same to blacksmith shop for sharpening, and no man be allowe dto carry tools up or down shaft. In slopes the company shall deliver the same to parting or bottom. The company shall not be responsible for tools.

7. Any underground employe not on hand to go down to work at the hour for commencing work, shall not be entitled to go below except at the convenience of the company. This applies where the company lets down the men on cages or with trip after starting time in the morning.

8. When an employe is sick or injured he shall be given a cage at once. When a cage load of men come to the bottom of the shaft, who have been prevented from working by reason of falls or other things over which they have no control they shall be given a cage at once. For the accommodation of individual employes less than a cage load who have been prevented from working as above, cage will be run mid-forenoon, noon and mid-afternoon of each working day. Provided, however, that the foregoing shall not be permitted to enable men to leave their work for other than the reasons stated above.

9. The sinking of slopes and driving narrow work through faults shall be left to local union and mine management for adjustment.

10. All double shift places to be paid thirty cents per yard extra.

11. All wet entries, rooms, slopes, slope air courses, and all other work connected with the slopes shall be left to local union and superintendent or manager for agreement of price.

12. Frozen or seamy coal, stuck top or bottom, shall be deficient work, and shall be paid for extra, the same
1491 to be determined by mine committee and pit boss. If they fail to agree, the miner shall be given an average place in the mine.

13. There shall be no deduction for school purposes except authorized by the individuals.

14. For the health and safety of the miners' lives, air courses shall be kept up with the entries as near as possible, and cross-cuts shall be driven every forty feet; where gas exists, they shall be driven every thirty feet. No room shall be turned inside the last cross-cut.

15. All coal under four feet in height where bottom has not been paid for in rooms shall be paid for at 2¼ cents per inch per yard.

Scale Price For Blacksmithing Miners' Tools And Machine Mine [Rools]

1. Three-fourths of one per cent on gross earnings for blacksmithing of miners' tools, and three-eights of one per cent on gross earnings for machine coal loaders' tools.

2. All sharpening and repairs of tools shall be done as promptly as possible.

3. The present conditions in regard to double and single work shall prevail.

4. Any employe absenting himself from work two days and not reporting for work on the morning of the third day, shall forfeit his right to his working place, unless excused by mine foreman, but shall be given another place on turn; provided, however, this shall not apply in case of sickness.

5. When a fall occurs in any working place the company shall make preparations to clean up same within four
1492 hours from time of notice; failing to do so the miner or miners affected shall clean up same, company paying at the rate of $2.70 per shift.

6. Price for moving all draw slate and rock exceeding two inches in thickness, two and six-tenths cents per inch per running yard for each five feet in width, and all over and above to be paid accordingly. This applies to all mines except where there is a special contract.

7. Where rooms are driven up narrow on account of bad top, the yardage shall be same as that in air courses, measurements to be made from the entry; and when room is widened out one-half room turning shall be paid. Where bottom is taken up, entry yardage shall be paid. This does not apply in rooms that have been widened out, then narrowed up and renecked, but in these cases the prices shall be 1908 rate, plus the advance.

8. When a car leaves working place it is in charge of the company, and average weight shall be paid for broken cars. Such cars shall be reported by the man that dumps the coal. The company shall keep all cars in good repair.

9. All coal four feet and over where it comes down to under a thickness of three feet four inches, shall be declared deficient work. This applies to Arkansas and Oklahoma.

10. Where cars are delivered at working face, all timber and rails shall be delivered there.

11. Where powder is taken into the mine in kegs, it shall be delivered to the working place; otherwise it shall be handled according to the methods in vogue at the various mines.

12. When any employe shall be requested to fill the
1493 place of another employe, as specified herein, he shall receive the wages of the employe whose place he [takew], plus 30 cents; provided, further, that it is not compulsory on any man who may not wish to take such place.

13. The District President of the U. M. W. of A., the Commissioner of the Southwestern Interstate Coal Operators' Association, and the State Mine Inspector shall be a committee of three to determine at what places shot firers shall be employed in Arkansas.

In behalf of the Southwestern Interstate Coal Operators' Association:

JAMES ELLIOTT,
President.
E. R. SWEENEY,
Vice-President at Large.
J. H. HIBBEN,
Secretary.

In behalf of the Miners:

P. R. STEWART,
President District No. 21.
F. W. HOLT,
Secretary District No. 21.

1494

Contract
for
District No. 25.

U. M. W. of A.

Adopted At Kansas City, Mo., September 19, 1910; for the period Ending March 31, 1912.

Sub-District No. 1.

Article 1.

Section 1. (A) The price for mining in Bevier, Ardmore, Huntsville, Yates, Renick, Higbee, Elliott, Keota and Associated mines, per ton of 2,000 pounds mine run coal, shall be as follows:

For coal 3 ft. 6 in. and over.....$0.70 per ton
For coal from 3 ft. to 3 ft. 6 in.... .75 per ton
For coal from 2 ft. 6 in. to 3 ft.... .80 per ton

Coal under 2 ft. 6 in. to be considered deficient.

(B) The price of entry yardage and dead work shall be as follows:

(C) Seven foot entry, $1.21 per yard. Twelve-foot entry, 69 cents per yard.

(D) Bottom brushing shall be paid for at the rate of 69 cents per yard where it does not exceed 15 inches to the rock.

(E) All seven-foot cross-cuts shall be paid for at the rate of $1.21 per yard, and twelve-foot cross-cuts at the rate of 69 cents per yard.

(F) All entries and cross-cuts, double shifted, shall be paid 30 cents extra per yard.

(G) Room turning shall be paid for at the rate of
1495 $3.15 for seven-foot neck; all over seven-foot neck shall be $1.21 per yard.

(H) Clay stratas or horse-backs shall be paid at the rate of $1.38 per foot for every seven lineal feet, fractional parts in proportion.

(I) When a room is narrowed down to seven feet on account of clay, there shall be paid room turning and clay strata prices, said room to be turned in the manner outlined in Paragraph G.

(J) Bench rock in Randolph and Macon counties shall be paid as follows: An average of eight inches and over, which runs three yards or more with the place 6.3 cents per ton additional to the regular mining prices, measurements to be made at four different places in the working place and an average made of thickness.

Machine Mining Scale.

For all shooting in Randolph and Macon counties, and all other shooting coal in District 25 under similar prices and conditions.

Machine Scale.

The differential between the pick mining price and the machine mining price shall be 10 cents per ton.

Machine Scale For Loaders.

The loaders to take care of the working places the same as is now done by the pick miners, and to remove sulphur, bench rock, and the clod left under the coal by the machines, and put same ten feet back from the face of the solid coal, for which the following prices will be paid.

1496 For mine run standard coal, 47 cents per ton.

For coal from 3 feet to 3 feet 6 inches, 50 cents per ton.

Coal under 3 feet to be considered deficient.

The price for entry yardage and dead work shall be as follows:

7-foot entry .....78.0 cents per yard
12-foot entry .....44.0 cents per yard
7-foot cross-cuts .....78.0 cents per yard
12-foot cross-cuts .....44.0 cents per yard

All entries and cross-cuts, double-shifted, shall be paid 19 cents extra per yard.

Room turning shall be paid for at the rate of $2.02 for a seven-foot neck; all over a seven-foot neck shall be paid 78 cents per yard. Room to be considered turned when it reaches twenty feet in width.

Clay stratas or [hose]-backs shall be paid at the rate of 89 cents per foot for every seven lineal feet, fractional parts in proportion.

When a room is narrowed down to seven feet on account of clay, there shall be paid room turning and clay strata prices.

Bottom brushing shall be paid for at the rate of 44 cents per yard, when it does not exceed ten inches to the rock.

Machine Runners And Helpers.

The machine runners and helpers to undermine the coal and remove into gob all mining dirt made by the machine, five feet from the point of delivery by machine; all roadhead dirt to be stowed in gob, for which the following
1497 prices will be paid:

For mine run standard coal:

Mine runner for cutting coal, 6.7 cents per ton.

Machine helpers for cutting coal, 6.3 cents per ton.

For coal from 3 feet to 3 feet 6 inches:

Machine runner for cutting coal, 7.7 cents per ton.

Machine helper for cutting coal, 7.3 cents per ton.

The price for entry yardage and dead work shall be as follows:

Seven foot entry, to runner, 13.0 cents per yard.

Seven foot entry, to helper, 12 cents per yard.

Twelve foot entry, to runner, 7 3/5 cents per yard.

Twelve foot entry, to helper, 6.9 cents per yard.

Seven foot cross-cuts, to runner, 13 cents per yard.

Seven foot cross-cuts, to helper, 12 cents per yard.

Twelve foot cross-cuts, to runner, 7.6 cents per yard.

Twelve foot cross-cuts, helper, 6.9 cents per yard.

All entries and cross-cuts, double shifted, shall be paid for as follows:

Machine runners, 3.2 cents per yard.

Machine helpers, 2.9 cents per yard.

Room turning shall be paid for at the rate of 66 cents for seven foot neck, to be divided as follows:

Machine runners, 34 cents.

Machine helpers, 32 cents.

All over seven foot neck to be paid 25 cents per yard, to be divided as follows:

Machine runners, 13 cents per yard.

Machine helpers, 12 cents per yard.

Clay stratas or horse-backs shall be paid at the rate of
1498 29 cents per foot for every seven lineal feet, fractional parts in proportion, to be divided as follows:

Machine runners, 15 cents per foot.

Machine helpers, 14 cents per foot.

When a room is narrowed down to seven feet on account of clay, there shall be paid room turning and clay-strata prices, to be divided in the same proportion as room turning and clay stratas.

General Rules.

(To govern loaders, machine runners and helpers.)

Width of rooms and number of rooms to loaders:

The minimum width of rooms shall be 23 feet and the maximum width 29 feet, but it is understood and agreed that loaders shall not be paid extra compensation for loading coal when the coal is over three feet six inches in height unless the rooms are less than twenty feet in width when the coal is over three feet to three feet six inches in height, no extra

compensation shall be paid unless the rooms are less than twenty-two feet in width. Roads in rooms of said dimensions to be in the center.

Places driven less than twenty feet and used as main entries, headings, or main air courses, shall be recognized as narrow work. Rooms of the dimensions stated shall be worked double, with rooms of the same dimensions for two men.

Blacksmithing.

Loaders shall pay 40 cents per month for blacksmithing: no blacksmithing to be charged the machine runner and helper.

Depth Of Rooms.

When rooms are driven to a depth of 165 feet from
1499 corner of pillar to face of room, the Company shall furnish miners with platforms for empties, and deliver empties to that point.

Snubbing Of Coal.

When the loaders are required by mine boss to snub coal, they shall be paid extra for snubbing.

Machine Cutting.

It is the duty of machine runners to keep the bottom as regular and cut as near the rib as possible. When the bottom is irregular, and it becomes necessary to take up bumps left by machines in the roadway to lay track, the operators shall take up said bumps; he may employ loader or daymen at his option. The runners and helpers are to avoid leaving spraggs under the coal, and they will be responsible to the loaders for any spraggs, machine dirt, or clod, in excess of six inches thick, left under the coal. The loader to report to mine foreman any [deriliction] on part of runners and helpers in these matters.

Timbering.

Loaders shall keep their working places securely propped as they do in pick mines. When machine runners are required to remove props to get the machine in room, they shall do so, reset the props, and leave the places as secure as they found them; upon the failure of the machine runners to do so, the loader shall report same to mine foreman.

Working Machines By Day.

The machine runners and helpers if refusing to operate the machines on a tonnage basis, the operators shall
1500 have the option of employing them by the day to operate the machines on the present day wage scale until the machine runner and helper elect, or the operators can secure other men to operate the machines on a tonnage basis.

Turn.

In mines where both pick miners and loaders are employed, the turn shall be in the proportion of three cars to the pickmen to five cars for the loaders.

Equal Turn.

Section 8 of the Interstate Agreement, under captain of "Equal Turn", shall be construed to mean that the machines shall cut all working places in turn, except in cases of unavoidable hindrance and that loaders shall have equal opportunties as near as practicable.

The machines mining scale in all other shooting coal in District No. 25, will be in the same proportion to the prices paid for pick mining as in Randolph and Macon counties.

Long Wall Scale For Higbee Field.

This scale shall be referred to a commission consisting of two miners and two operators, with the instructions to agree on scale. Should they fail to agree, they are hereby empowered to select a fifth man, who shall be a practical mining man, with a general knowledge of long wall work. The scale agreed to by this commission shall be binding on both parties to the contract, and remain in effect during the life of joint agreement, and shall become part of joint agreement.

1501 General Rules.

Section 2. (A) In Sub-District 1 all draw slate or false top shall be paid for at a price agreed upon between the mine foreman and the parties affected.

(B) All iron track in Sub-District 1 shall be laid by the Company.

Perry, Mo.

(A) The price of mining shall be $1.12 per ton.

(B) Room turning shall be $3.17 per ton.

(C) Entries 8 feet wide, $1.67 in clean coal; $2.08 per yard in faulty coal, and for single ribs, 83 cents per yard.

(D) Brushing in entry and room road sall shall be 2.6 cents per inch, for every inch in thickness per yard.

(E) All conditions in effect at the expiration of the old scale, to remain in effect during this contract.

Sub-Distrcit. No. 2.

Ray and Clay Counties.

(A) In Ray and Clay counties Long Wall Work, the price for pick mining shall be $1.16 per ton of 2,000 pounds for hand picked coal, free from slack and other impurities. The mining price shall include the proper care of the working place; namely, taking down of all coal and slate mined, pillaring and propping, handling of all sulphur, dirt and slate, and properly stowing same in the gob. Also the building of road walls in the road head rooms, except at Camden and Fleming.

(B) The rate for loading coal after mining machines shall be three-fifths of the above pick mining rate; namely,
1502 69 3-5 per ton of 2,000 pounds for hand picked coal, free from slack and other impurities. This price shall include the proper care of the working place; namely, taking down all coal and slate mined, pillaring and propping, handling of all sulphir, dirt and slate, and properly stowing same in the gob. Also the building of road walls in the road head rooms, except at Camden and Fleming.

(C) In Ray and Clay counties, seven-foot entry $1.49 per yard, fourteen foot entry $1.31 per yard, and miners to be paid for coal.

(D) In Ray and Clay counties, rib cutting 90 cents per yard.

(E) Rock shooting in Richmond shall be $2.53 per yard for shooting and gobbing or pulled to switch.

Rock shooting at Camden shall be $2.32 per yard, delivered at the bottom.

Rock shooting at Fleming shall be $2.32 per yard, same conditions as now in effect to prevail.

Rock shooting at Missouri City shall be $2.32 per yard, for shooting and gobbing or delivered to the bottom.

(F) In Ray county the company to take all coal, including the home box, from place where loaded. Miner shall take in empty box in the morning, provided there are empty boxes at the bottom, and shall pass empty boxes along the face during working hours.

(G) In Ray and Clay counties the price for gob entry shall be $1.85 per yard, entry to be ten feet wide. This to include lifting of bottom to the rock, where same does not exceed eighteen inches, and delivery of all material on cars
at the shaft bottom, or mule or motor junction, at the
1503 option of the operator.

(H) Except in road head rooms, no dirt, sulphur, clay or slate shall be loaded for hauling out of the mine, unless there is no gob room opposite where the dirt falls.

(I) In pick work the length of rooms shall not be less than thirty-five feet. The company reserves the right to divide the working face among the men working, so as to keep the face straight and in the proper normal working condition.

(J) In machine mining, at the direction of the foreman, loaders shall load out other than their own rooms to allow machines to run.

(K) At all new mines 13.2 cents extra per ton shall be paid, until the mine or any substantial part there takes weight, after which all extra shall cease, on notification by the management.

(L) When a miner or loader is absent from his working place, the men working the rooms adjacent, or men from other parts of the mine, as the operator may elect, must work his room during the time he is absent. If the miner's or loader's room is in such condition that the miner or loader who is to work same demands extra compensation on account of the miner or loader not having properly cleaned up his working place, and the mine foreman and pit committee decides that he is entitled to extra pay for working same, he shall receive such extra compensation as may be decided upon by the mine foreman and the pit committee, at the expense of the miner or loader who is absent from said working place. "Men from other parts of the mine" shall be construed to mean extra men or others available.

(M) When a miner's or loader's place falls in, after
1504 being [ptoperly] propped or pillared, it shall be
cleaned up promptly either by the miner or loader, at the day wage scale, or by the Company, at the option of the foreman. When a miner's or loader's place falls in because

it has not been properly propped or pillared by the miner or loader, it shall be cleaned up as above, at the miner's or loader's expense.

(N) In case a miner or loader does not clean up the place in which he is working in conformity with his duties, the Company shall clean up same at the expense of said miner or loader.

(O) Each machine shoveler shall clean up all dirt made by his machine, and put same in the gob. If he fails to do so, the Company shall clean up the dirt and charge the cost of same to the shoveler.

(P) In Ray County, where the machine leaves more than six inches of mining below coal, and it is left for the loaders to clean up, they shall be paid at the rate of the maximum day wage scale for such excess over six inches.

(Q) Roadway at Fleming, Camden, Missouri City and Richmond shall be kept brushed, so that men can load on top of the box not less than 14 inches, except in case of breaks, and the rock brushing shall be kept up as near point rails as practicable.

(R) In Richmond, where float rock comes in mining, it shall be paid for by the day at the maximum day wage scale, unless the parties affected and the mine foreman agree on a price to be paid for the same.

(S) In Camden, Fleming and Missouri City, when there is as much as ten feet of sticky slate, then miners to re-
1505 ceive 6-½ cents per ton extra.

(T) At Camden and Missouri City, where there is as much as ten feet of float rock in the mining, the miner to receive 6-½ cents per ton extra.

(U) In Fleming, Camden and Missouri City, when cap rock falls and the miner has to load it out or gob it, he shall receive ten cents per box.

(V) Road walls at Fleming and Camden shall be paid at the rate of thirty cents per yard single walls, 59 cents per yard for double walls, when built with slate or rock.

(W) When a fall of slate or rock falls so as to obstruct the haulage in a room, the miner shall be paid for the time of cleaning the same up, at the maximum day wage scale. When more than 1,200 pounds is down it shall be optional with the Company to clean up the same.

(X) In Ray county the Company shall furnish employes coal for their own use at eight (8) cents per bushel at the mine, plus the advanced cost of production over past contract period.

Marceline, Linn County.

Marceline Mine No. 1 and Landreth Mine.

(A) The price for mining shall be $1.27 per ton of 2,000 pounds mine run coal. Said mining price shall include not less than 24 inches of brushing, the proper building and care of working place, the delivery of coal loaded on pit car at the switch, the cleaning of the sulphur from the coal and stowing of the same in the working place.

(B) Room turning, $5.03; Entry turning, $5.03.

1506 (C) 11.9 cents per ton shall be paid for cross-shifting.

(D) For entry brushing, 6 feet high and 6 feet wide, or to the smooth that the Company men now brush to, $1.89 per yard or the Company may do the brushing at its option. In case the Company elects to do the brushing they shall do it all, and in such a manner as not to interfere with the miners' work.

(E) The Company agrees to maintain all roadways from switch to face of brushing.

(F) It is agreed that whenever any slip, roll or other unusual condition occurs in the roof, the same shall be paid for by the Company at a price that may be mutually agreed upon between the mine foreman and the miner interested.

(G) The miner must not send out dirt or slate if he has gob room.

(H) The width and length of rooms shall remain as at present.

Marceline Mine No. 2.

It is agreed that a scale shall be provided for this mine in the following manner:

A commission consisting of two disinterested operators and two disinterested miners shall go to Marceline as soon as the mines can be cleaned up and put in normal working condition and examine and compare the work at both mines and fix a scale for this mine in accordance with the actual conditions found there that shall be just and equitable. In case the commission should not be able to agree, the clause in General Provisions covering such cases to apply. Day work performed

pending the action of this commission to be paid for as
1507 per new scale. Mining and dead work to be paid as before the suspension, subject to any general advance that may be agreed upon, but to be retroactive in final adjustment.

Leavenworth County, Kansas.

A. The price of mining shall be $1.00 per ton of 2,000 pounds of mine run coal.

(B) Brushing in entries shall be $1.36 per lineal yard for slate, entry to be brushed six feet wide at top and bottom and six feet high from top of rail.

C. Sulphur top in entries shall be paid as follows:

Up to 12 inches thick.....$0.59 per lineal yard
12 to 18 inches thick..... 0.88 per lineal yard
18 to 24 inches thick..... 1.49 per lineal yard
24 to 30 inches thick..... 1.78 per lineal yard
30 to 36 inches thick..... 2.08 per lineal yard
36 inches or over..... 2.37 per lineal yard

D. Brushing in rooms shall be 26 cents per lineal yard for slate; in new rooms 40 cents per lineal yard for slate until next room is turned. Rooms to be brushed 5 feet wide at top and bottom and 5 feet high from top of rail.

E. Sulphur top in rooms shall be paid for as follows:

Up to 12 inches thick.....$0.59 per lineal yard
12 to 18 inches thick..... 0.88 per lineal yard.
18 to 24 inches thick..... 1.49 per lineal yard
24 to 30 inches thick..... 2.08 per lineal yard
30 to 36 inches thick..... 2.37 per lineal yard
36 inches or over..... 2.67 per lineal yard.

When sulphur top in rooms exceeds 24 inches in thick-
1508 ness the price of slate brushing shall be cut out.

F. All places that turn rooms and cut off rooms shall be paid for the same as entries.

G. For each entry turned and driven to break, $7.12 shall be paid. For each room turned and driven to break,

$4.75 shall be paid. In both cases, the brushing thereafter shall be measured from such break.

H. Each miner to receive one car every turn for [caool], and such extra or additional cars for slate and dirt as may be necessary. The method of turn-keeping for slate and dirt shall be left for settlement between the district officials and the management of the mine.

I. The miner must not send out dirt, slate or sulphur if he has gob room, and must gob same by throwing diagonally towards the corner of the room. He shall also build walls in roadway. Failure to do above shall be punished as provided in Section 4 of Interstate General Conditions.

J. In case miner allows corner of room below 25 feet to get behind regular face of coal, he shall catch same up at once when ordered to do so by the mine foreman. Upon failure to do so, he shall forfeit his place.

K. In case of machine mining in Leavenworth County during the life of this contract, loaders after machines shall be paid three-fifths of the pick mining price, subject to the usual conditions of loading after machines in the low coal field of District 25.

L. All falls in roadways and entries to be cleaned up by Company. All falls in rooms to be cleaned up by Company.

M. Float rock shall not be taken up whenever mining parts of rock.

1509 N. Miners to receive coal for their own use at $3.00 per ton, delivered, when such delivery does not exceed one mile from where they work.

O. All conditions and customs other than mentioned above to remain the same as last year.

Kansas City-Brookfield Coal & Development Company.

Bunker Hill Mine.

It is agreed that the scale for this mine shall be left to the Operators' Commissioner and District President for settlement.

Lafayette County.

(A) The rate for pick mining shall be $1.16 per ton of 2,000 pounds hand picked coal, free from slack and other impurities, which shall include the proper care of the room, viz:

taking down all coal and slate mined, pillaring and propping, handling and properly gobbing of sulphur and slate, also the building of road walls in road head rooms.

(B) The rate for loading coal after mining machines shall be three-fifths of the above pick mining rate, viz: 69 3-5c per ton of 2,000 pounds for hand picked coal, free from slack and other impurities, which also includes the proper care of the rooms, viz: taking down all coal and slate mined by the machine, pillaring and propping, handling and properly gobbing of sulphur, dirt and slate; also the building of road walls in the road head rooms.

(Explanatory Note.—) Above clauses are not intend-
1510 ed to abolish the past custom of the company to shoot the sulphur when same cannot be handled by the loader, the payment of excessively thick sulphur, the payment of frozen or sticky block slate, or the propping of the place, according to past custom, but is intended to define the duties of loaders and the amount of labor required for the loading price. See proceedings of Conference Committee.)

(C). Except in road head rooms, no dirt, sulphur, clay or slate shall be loaded for hauling out of the mine, unless there is no gob room opposite where the dirt falls.

(D) At Lexington and Lanning-Harris Company's mine the Company shall pay 9-½ cents per ton for wheeling to mule or motor junction, where the miner or loader will get his empty car.

(E) Corners or rib cutting shall be $1.19 per yard. Miners or loaders to handle all sulphur, dirt and slate, also the building of road walls if necessary to be done, the same as in road head rooms. In case miner or loader allows corner or rib to get behind the regular face of the coal, he shall catch same up at once when ordered to do so by the mine foreman. Upon failure to do so, he shall forfeit his place.

(F) Entry driving shall be $2.97, and the miners shall be paid for the coal therefrom.

(G) At McGrew's Graddy mine rock shooting, loading, pulling, dumping and building permanent road track shall be $2.58 per yard, height 5½ feet from top of permanent road rail before bottom is lifted. Bottom lifting shall be $1.49 per yard loaded, pulled and dumped.

1511 In McGrew's Nos. 1 and 2 mines rock shooting, loading and trimming one side to receive trolley wire shall be

$2.26 per yard height 5½ feet from top of permanent road rail.

At Western Coal & Mining Company's mines where entry crushing is taken from both roof and bottom the price of each shall be $1.49 per yard, which shall include shooting, loading and delivery of material at the shaft bottom, height to be not less than 5 ½ feet from the top of the permanent road rail.

At Higginsville, and Lanning-Harris Company's mine near Wellington, the price for rock shooting shall be $2.37 per yard for shooting and loading. The same condition as to height of brushing as in contract expiring March 31, 1910.

(H) In Lexington, where a five inch cutting machine cuts more than eight inches from bottom of sulphur to bottom of cut, or where a four inch cutting machine cuts more than seven inches from bottom of sulphur to bottom of cut, the Company shall clean up all dirt or pay the miner the maximum day wage scale for the same. This does not apply where sulphur varies or gets thin in the back of the cut and the machine is run level. The Company also agrees to have machine runners cut as close to the sulphur as possible.

Machine shovelers shall clean up all dirt made by machine and stow it well back in the gob.

(I) In case any loader does not clean up the place in which he is working, the company shall clean up same at the expense of suit loader. Said dirt to be cleaned up and stored in the gob in the same manner as is required of the miner or loader.

1512 (J) Machine shovelers shall clean up all dirt made by machines and put same in gob; they failing to do so, the Company shall clean it up and charge the cost of same to the shoveler.

(K) At Lexington the price for driving entries through the gob shall be $2.67 per yard. Entry to be ten feet wide, This to include lifting of bottom to the rock when same does not exceed 24 inches, and delivery of all material on cars at shaft bottom or drift pit pot, or mule motor junction, at the option of the operator. Also to include the laying of permanent track. When the Company desires to drive an entry through the gob and not lift the bottom, the price shall be $1.18 per yard in addition to the top brushing scale. This provision to include any other mine with similar conditions.

(L) The same rules and customs now in effect at Lexington relative to division of ground in machine mines to continue in effect during the life of this contract.

(M) In machine mining, at the direction of the foreman, loaders shall load out other than their own rooms to allow machines to run.

(N) At all new mines 13.2 cents per ton extra shall be paid until the miner or any substantial part thereof takes weight, after which all extra shall cease on notification by the management.

(O) When an adequate number of empty railroad cars are at the mines at the starting time in the morning to work the first one-fourth day and the operator has the assurance from the rail road company that more cars will be placed at the time before the empty cars are loaded, then all
1513 employes shall go to work. Where physical conditions made the above impossible, this condition to be arranged between the local union and the operator.

(P) When a miner or loader is absent from his working place, the men working rooms adjacent or men from other parts of the mine, as the operator may elect, must work his room during the time he is absent. If the miner's or loader's room is in such condition that the miner or loader who is to work the same demands extra compensation on account of the miner or loader not having properly cleaned up his working place, and the mine foreman and pit committee decide that he is entitled to extra compensation for working same, he shall receive such extra compensation as may be decided upon by the mine foreman and pit committee, at the expense of the miner or loader who is absent from said working place. "Men from other parts of the mine" shall be construed to mean extra men or others available.

(Q) When a miner's or loader's place falls in after being properly propped or pillared, it shall be cleaned up promptly, either by the miner or loader at the day wage scale, or by the Company, at the option of the foreman. When a miner's or loader's place falls in because it has not been properly propped or pillared by the miner or loader it shall be cleaned up as above at the miner's or loader's expense.

(R) At Higginsville all skip roads shall be paid 13.2 cents per ton extra.

(S) At Higginsville the Company to take all coal, including the home box, from place where loaded and
1514 place empties at the same place.

The Company to have the option of letting the contract for pushing the coal to either one or two contractors at each mine, provided that not less than 9½ cents per ton be paid to said contractor or contractors.

It is further provided that should the pushers in all or any part of the mine desire to push the coal by the ton instead of the day wage scale they have that option, provided that not less than 9½ cents per ton is paid for the pushing.

(T) At Higginsville, in lieu of pay for building road walls, the Company agrees to furnish coal to their employes for their own use, at 9 cents per bushel at the mines, plus the increased cost of production.

(U) Blackjack shall be paid for the same as coal at Higginsville, Wellington and Associated Mines.

(V) In Higginsville, where machines cuts more than 7 inches from bottom coal to bottom of cut, the company to clean up dirt or pay the miner in whose room such cuts are made the maximum day wage scale for cleaning up the same.

(W) In Higginsvlile the price for entry driving shall be $2.37 per yard, miner to be paid for the coal.

(X) In Higginsville five rails shall constitute a room in machine work. Where machine shovelers leave the dirt made by machine the miner to receive the maximum day wage scale for cleaning the same.

(Y) Roof slate at Lexington to be paid for by a mutual agreement between mine foreman and party affected,
1515 or as per past custom, based on the time required to clean up the same, at the maximum day wage scale.

Henry County.

Brownington and Deepwater.

(A) The price for mining in Brownington and Deepwater shall be $1.00 per ton for mine run coal, and $1.16 per ton for hand picked coal.

(B) Dirt, shale or sulphur coming down with the coal shall be paid for as agreed between mine foreman and parties affected.

(C) Yardage: Six foot entry $1.32 per yard, brushing, $1.06 per yard; brushing to be five feet above rail.

(D) Rolls, slips and horse-backs shall be considered deficient work and be paid for at a price to be agreed upon between the mine foreman and parties affected.

(E) Room turning, $2.37 for each door-way. The price for making first break-through between rooms $2.37, miner to make all other necessary break-throughs.

(F) For twelve-foot entries, 84 cents per yard.

Dover.

(A) At Dover mines, for hand picked coal, free from slack and other impurities, $1.16 per ton shall be paid for all coal 16 inches and over; for all coal from 16 inches to 13 inches, $1.30 per ton shall be paid; all coal below 13 inches shall be declared deficient and be paid for under an agreement between the pit boss and the miner, and in case
1516 they fail to agree, between the pit committee and the operator, and in case they fail to agree, then as provided in the Interstate Agreement.

(B) At Dover mines, coal shall be wheeled from the face to the mule road head entries by the miner, and the empty boxes shall be taken by the miner therefrom to their respective places at end for 13.7c per ton in addition to the mining price, in the same manner as now done at the mines.

(C) All slopes or roads shall be kept within 20 feet of the face, and not lower than 32 inches in height, as near as practicable.

(D) All roads, when carried over ten feet in width, the Company to take care of all dirt over ten feet.

(E) All face brushing shall be done by the Company and shall be at east twelve inches above bed of pit car, as near as practicable.

Windsor, Mo.

Mining price mine run coal, per ton of 2,000 pounds	$0.70
12 foot entries, per yard,	1.06
8 foot entries, per yard	1.58
Room turning, each	2.37

Waverly, Mo.

(A) Mining price shall be as follows:

1517 For coal 3 feet 6 inches, and over 75 cents per ton; from 3 feet to 3 feet 6 inches, 78 cents per ton, All coal under 3 feet to be considered deficient work.

(B) Seven-foot entries, $1.21 per yard.

(C) Twelve-foot entries, $1.11 per yard.

(D) Cross cuts between entries to be paid the same as entries as similar width.

(E) Room turning, $3.15.

(F) Cross-cuts between rooms to be paid entry prices for similar width.

(G) Clay stratas and horse-backs shall be paid at the rate of $1.06 per foot for every 7 lineal feet, fractional parts in proportion, or by day, at option of operator.

(H) When a room is narrowed to 7 feet on-account of clays or horse-backs, the miner shall be paid room turning and clay strata prices.

(I) When a room caves in, through no fault of the miner, and the places are stopped on account of falls on the road, the Company shall pay the miner for the labor he has performed in said place.

(J) Entry brushing shall be paid 69 cents per yard, not exceeding 15 inches; all over 15 inches to be paid 4½ cents per inch per yard. Price for showing brushings shall be 37 cents per yard.

(K) Under usual conditions, when draw slate comes with the coal, the following prices shall be paid by the Company and accepted by the miner:

Draw slate, 3 inches and less then 5 inches, 5¼ cents per ton.

1518 Draw slate, 5 inches and less than 10 inches, 9½ cents per ton.

Draw slate 10 inches and less than 15 inches, 14¾ cents per ton.

Draw slate, in entries, 3 inches to 5 inches, 25 1/3 cents per ton.

Draw slate in entries, 5 inches to 10 inches, 49½ cents per ton.

Draw slate in entries, 10 inches to 15 inches, 75 cents per ton.

These prices to apply to draw slate and not to false top.

(L) Where cribs are built by the miner they shall receive the maximum day wage scale.

(M) Bottom brushing to be paid $1.00 per yard; said brushing not to exceed 15 inches in thickness.

(N) When the Company desires to double shift entries, they shall pay 30 cents per yard extra.

(O) The Company agrees to put all work on a single basis as rapidly as possible, and that no additional miners will be employed in rooms or entries above what are employed at this date until work is single.

Sub-District No. 4.

Adair And Schuyler Counties

Novinger, Connelsville And Associated Mines.

Section 1. (A) Mining price for mine run coal, 2,000 pounds per ton, shall be for standard coal of present normal height and condition as follows:

1519 (B) Coal 39 inches or over.....75 cents per ton.
Coal from 36 to 39 inches.....80 cents per ton.
Coal from 30 to 36 inches,.....85 cents per ton.

(C) Should the owner of Midland No. 1 mine at any time during the life of this contract, change the plan and system of mining the vein from room and pillar to long wall, the scale and conditions provided in Stahl long-wall contract, which expired March 31, 1910, shall apply and govern at this mine during the remainder of the life of this contract; provided, that said scale for mining shall not be effective until, and as said mine takes weight and the ordinary normal workings of long-wall mining is shown; and provided, further, that if conditions should be developed different from the conditions at Stahl as affecting the labor of mining, then there shall be a readjustment of the scale of prices to be made by the Operators' Commissioner and Miners' representative; provided, further, that until said mine takes weight and the ordinary normal workings of long-wall mining is shown the mining shall be done by day work at $2.70 per day.

(D) The prices of bench rock shall be as follows: Seven-foot entry, after there is three inches in thickness with bench rock, the Company to pay 6.3 cents per inch per yard extra, running measurement.

(E) Twelve foot entry, 2.1 cents per ton extra for every inch after three inches.

(F) Rooms after they are three inches in thickness with bench rock 6.3 cents per inch extra for first seven feet; and after the first seven feet 1.6 cents per ton per inch extra after three inches in thickness, measurements to be on
1520 the 1st and 16th of each month in front of the road head.

(H) If, during the life of this contract, any new mine is placed in operation in mine run shooting coal in Sub-District No. 4, in which the coal is of the same height as in either of the mines above specified, or in which the conditions are similar to those in either of the mines above named, the above and foregoing scale of prices for mining coal, yardage, room turning, day wages, dead work and all other general prices shall apply and be effective.

(I) If, during the life of this contract, any new mine is placed in operation in Sub-District No. 4, in which the coal is not of the same height as in either of the mines above specified or in which the conditions are dissimilar to those in either of the mines above named, then a scale of prices covering all work in such new mine or mines shall be made by the parties to this contract and remain in force during the term hereof.

Entry yardage and room turning for the above named mines shall be as follows:

Section 2. (A) Seven and eight foot entries per yard, $1.86.

(B) Twelve foot entries, $1.26.

(C) Cross cut between entries, $1.86.

(D) Room turning $3.45, each room to be 7-foot neck; all over at the rate of $1.86 per yard.

(E) Cross cuts between rooms shall be paid entry prices for similar width.

(F) Brushing in entries shall be paid for as follows: For the first 15 inches or less 63 cents per yard. For
1521 each additional inch 4 1-5 cents. Entries shall be brushed to a width of four feet three inches at the

bottom. The above prices apply to clay of ordinary hardness.

(G) The companies shall abandon bottom brushing in rooms, lay all track in rooms, and take the loaded cars from the face of the room; the miner to push the empty car from the switch to the face as he has done in the past and is now doing.

(H) Clays, draw slate or false top shall be considered deficient work and be paid for at a price to be agreed upon between mine foreman and parties affected.

(I) For cross shifting entries or cross cuts shall be paid 30 cents extra per yard.

Scale for Mine No. 21 of Great Northern Coal Company.

(A) Standard coal, mine run:

38 inches and over	$0.94 per ton.
35 inches to 38 inches	0.99 per ton
32 inches to 35 inches	1.04 per ton
29 inches to 32 inches	1.09 per ton
26 inches to 29 inches	1.14 per ton
23 inches to 26 inches	1.19 per ton
20 inches to 23 inches	1.24 per ton

All coal under 20 inches to be paid as follows:

19 inches	$1.29 per ton
18 inches	1.34 per ton
17 inches	1.39 per ton
16 inches	1.44 per ton
1522 15 inches	$1.49 per ton.

All coal under [fiteen] inches to be declared deficient.

(B) Yardage:

8 foot entries	$2.34 per yard
12 foot entries	1.52 per yard.

(C) Cross-cuts 8 feet wide, $2.34 per yard.

(D) All entries and cross-cuts to be undercut one-half depth of shot and have the rib or corner cut to half depth of shot.

(E) Brushing, 4 1-5 cents per inch per yard.

(F) Room turning 12 ft. doorway, 7 ft. neck, $3.45 per door way; all over 7 ft. neck, $1.52 per yard.

(G) Rooms to [bbe] forty feet wide, with track on each rib and two men to work in each room.

(H) All coal to be mined half depth of shot, the Company to tamp and fire all shots.

Scale for Star Coal Company, Kirksville, Mo.

The tonnage price for mine run coal in rooms, based on the Stahl system of room and pillar mining, shall be as follows:

Standard coal:

38 inches and over	$0.94 per ton
35 inches to 38 inches	.99 per ton
32 inches to 35 inches	1.04 per ton
29 inches to 32 inches	1.09 per ton
26 inches to 29 inches	1.14 per ton
23 inches to 26 inches	1.19 per ton
20 inches to 23 inches	1.24 per ton.

1523 All coal under 20 inches to be paid as follows:

19 inches	$1.29
18 inches	1.34
17 inches	1.39
16 inches	1.44
15 inches	1.49

All coal under 15 inches to be declared deficient.

Room turning, 12 foot doorway, 7 foot neck, $3.45 per doorway; all over 7 foot neck to be paid $1.26 per yard.

Rooms when broken through to have 60 feet of ground, with two roads.

Cross-cuts between rooms to be paid for at entry price of similar width.

Each room to be furnished with a pair of short rails.

The tonnage and yardage in entries, based on the Novinger system if driving entries, shall be as follows:

Standard coal:

39 inches and over	$0.75 per ton
36 inches to 39 inches	.77 per ton
30 inches to 36 inches	.85 per ton
27 inches to 30 inches	.90 per ton

24 inches to 27 inches ..... 95 per ton
21 inches to 24 inches ..... 1.00 per ton.

All coal under 21 inches to be paid as follows:

20 inches .....$1.05 per ton
19 inches ..... 1.10 per ton
18 inches ..... 1.15 per ton
17 inches ..... 1.20 per ton
16 inches ..... 1.25 per ton
15 inches ..... 1.30 per ton.

1524 All coal under 15 inches shall be declared deficient.

Entry Yardage.

Seven and eight foot entries, $1.86 per yard.

Twelve foot entries, $1.26 per yard.

Cross-cuts between entries, $1.86 per yard.

Brushing in entries and rooms shall be paid for as follows:

For the first 15 inches or less, 63 cents per yard. For each additional inch, 4 1-5 cents. Brushing to be four feet three inches wide at the bottom. The above price to apply to clay or ordinary hardness.

Clays, draw-slate or false top in entries or rooms shall be considered deficient work and be paid for at the price to be agreed upon between the mine foreman and the parties affected.

For cross-shifting entries or cross-cuts shall be paid 30 cents extra per yard.

Coal City No. 10 Mine.

(A) It is agreed that no scale shall be made for this mine until the question of change of jurisdiction is settled. It is further agreed that this question shall be taken up and disposed of as promptly as possible after general operations are resumed.

Long Wall Machine Mining Scale for Rombaur Coal Company, Novinger, Mo.

Section 1. (A) It is agreed that a scale for this work shall be made in the following manner:

Said mines shall resume operations when work is
1525 commenced under this contract, and the employes shall be paid the day wage scale, effective under this contract and so work for a period of one month.

The mines shall then be operated on the tonnage price, effective under this contract, and shall remain on the tonnage basis for a period of one month. In the meantime a commission shall be appointed, consisting of two miners and two operators with a general knowledge of machine and longwall mining. Said commission shall visit and examine the mines in question, and thoroughly familiarize themselves with the physical and working conditions therein, both while the mines are operated on the day and tonnage rate.

It will be the duty of said commission when the above mentioned time has expired and instructions complied with, to have prepared and executed a complete scale for said mines, which shall be retroactive from the time mines began operation on the tonnage basis.

If the commission above provided for shall fail to reach an agreement, they are hereby empowered and instructed to immediately select the fifth man, whose decision shall be final and binding during the life of this contract.

Rules Governing Shot-Firers.

Sec. 2. When not over thirty miners are employed in one mine the Company shall make arrangements for firing shots, provided the men employed as shot-firers are paid the scale rate for that class of labor during the time they are so employed, and not work over eight hours each day. When from thirty to fifty miners are employed, shot-firers shall go to work at noon and work at their regular
1526 work, either as miners or day men, and shall be paid a half shift at the shot-firers' scale. When from fifty to one hundred miners are employed, two shot-firers shall be employed, whose duties shall be to fire shots exclusively. When from one hundred to one hundred and twenty-four miners, inclusive, are employed, the shot-firers shall receive 7 1/2 cents per man for firing all shots over the one hundred men. When one hundred and twenty-five men are employed, the third shot-firer shall be employed, and one shot-firer shall be employed for each additional fifty miners. The question of fuse and squibs shall be left to local settlement. When a shot-firer fails to give satisfaction, in the judgment of the mine foreman and pit committee, he shall [ge] removed as shot-firer and offered some other employment in the mine.

Inside Day Wage Scale.

Track layers	$2.70
Track layers' helpers	2.49
Trappers	1.19
Bottom cagers	2.70
Drivers	2.70
Trip riders	2.70
Pushers	2.70
Water haulers and machine haulers	2.70
Timbermen, where such are employed	2.70
Pipe men, for compressed air plants	2.64
Company men in long wall mines	2.49
Spragging, coupling and greasing, when done by boys	1.85
Shot-firers, under normal conditions	3.17
1527 [Mortormen] (minimum), same as in District No. 21	$2.70
Machine runners	2.91
Rail setters	2.70
Spraggers of coal	2.70
Machine shovelers	2.70
Trackmen with machine	2.49
Mine examiners or gas men	3.17
Sinkers (minimum)	2.96

Sinking to be considered as completed when work reaches a point twelve feet from edge of shaft.

All other inside day laborers	2.49

Outside Day Wage Scale.

Dynamo tender and night hoister (nine hour shift)	$3.17
Machinist	2.97
First blacksmiths	3.17
Second blacksmiths	2.90
Blacksmiths' helpers	2.49
Carpenters	2.56
All other outside day labor	2.14

Provided that all classes of outside day labor not otherwise enumerated shall be paid the same scale of wages as was paid under the contract expiring March 31st, 1910, plus 5.55 per cent.

Engineers, first class, 500 tons and over, per month	$83.38
Second class, 300 to 500 tons, per month,	77.05
Third class, 300 tons or less, per month	68.60

1528 Tail Rope and Slope Engineers.

The minimum rate for tail rope and slope engineers shall be $2.51 per day, or $65.44 per [monthl] provided, further, that the maximum rate for tail rope and slope engineers shall be $2.85 per day, or $73.88 per month. Twenty-six days to constitute a month's work and nine hours to constitute a day's work. All overtime in excess of nine hours to be paid for at a proportionate rate per hour.

General Provisions.

(A) That all necessary timbers and rails shall be delivered by the Company at the place where the miner receives his empty car.

(B) That the price of powder shall remain at $2.00 per 25-pound keg during the life of this contract, and the powder shall be of the standard brands and of the best quality for the purpose for which it is used. Powder to be delivered by Company to drivers at foot of shaft for convenience to miners' switch. Company's responsibility to end when powder is placed at such switch.

(C) The prices paid for blacksmithing in District No. 25 shall be the same as past contract, plus 5.55 per cent, the miners' tools to have preference, and the tools shall be properly sharpened.

(D) The pay shall be semi-monthly and payable not later than ten days after the close of each semi-monthly pay period. The Company shall furnish a statement of accounts, with receipt attached, not later than eight days after the close of each semi-monthly pay period; Company to commence
1529 paying not later than 4.00 o'clock p. m.

(E) When a mine or any part of a mine is closed down, throwing men out of work, they are to be employed in any other mines that may be in operation at that time by the same Company. They to be the first to be taken on when the place resumes work.

(F) When a man is taken from the face to do any day work, his wages shall be $2.70 per day.

(G) When a miner works at the face by the day, his wages shall be $2.70 per day.

(H) All deficient work not covered by this agreement shall be paid at a price to be mutually agreed upon by the pit boss and parties concerned, and should they fail to agree, the same

shall be referred as provided in Section (1) One of Interstate General Conditions. It is understood and agreed that pending adjustment of said deficient work, the men shall continue to work.

(I) There shall be no coal mined or loaded by the day, except where no scale has been made to govern same, or in deficient work, or where it becomes necessary for a machine to pass.

(J) The color line shall not be a bar to employment.

(K) The words "maximum day wage scale", as used in this contract mean $2.70 per day.

(L) There shall be end-gates put in pit cars whenever miners desire them, the Company to have a reasonable length of time to do the same. This provision does not apply
1530 to long-wall face track work.

(M) When a mine is idle for any cause and day men are employed, the work shall be divided equally among the regular day men at their respective classes of work. Any additional day labor shall be equally divided among the other day employes who are competent to do the work.

(N) For cars wrecked by derailment or obstruction too close to the track in entries, unusually rough jolting, tracks being in bad order, cars being in bad order, meeting with an accident on the bottom or in the shaft, the Company shall pay the miner the average of his unbroken cars for that day; provided, that the Company shall have the right to reload such wrecked cars, or reload the coal therefrom into other cars, weigh and credit same to the miner who loaded it, in lieu of paying him for the wrecked cars. The representatives of the Miners' Organization agree to discourage bad loading upon the part of its members.

(O) Except as hereinafter provided, any employe absenting himself from work one (1) day and not reporting for work on the morning of the second day, shall forfeit his right to his working place, but not his right to employment, unless he shall have first notified the mine foreman.

No engineer, fireman, pumper, machine runner, machine helper, shot-firer, motorman, motor helper, fire runner, driver, cager, or gas man shall [agsent] himself from work at any time without first having given one day's notice to the mine foreman and obtained permission to be absent. Any one of the above classes of labor violating this section shall forfeit

his position, but not his right to employment, which may
1531 be at any other class of labor. This rule shall not apply in case of sickness.

(P) The Company shall have the option of sending any of its day men into the mine at any hour before the regular starting time, that may be necessary for them to properly clear roads and make inspections, provided his work is confined to eight hours. The regular starting time shall be arranged jointly to suit local conditions.

(Q) The United Mine Workers shall not restrict the work of any employe, provided said work is done within the hours prescribed in this contract.

(R) No extra price shall be paid for rock shooting, bottom lifting, or brushing in wet entries where same are kept [reasonable] dry, in accordance with Section 12 of General Conditions of Interstate Agreement.

(S) When a miner's place falls in after being properly timbered, it shall be cleaned up within twenty-four (24) consecutive hours; if not, the miner shall be given employment cleaning the same at the maximum day wage scale. Should the miner fail to give satisfaction while cleaning up said fall, he shall be given another place while said fall is being cleaned up by said Company; then the miner shall return to his place.

In behalf of the Southwestern Interstate Coal Operators' Association:

JAMES ELLIOTT, President.
E. R. SWEENEY, Vice-Prest.-at-Large.
J. H. HIBBEN, Secretary.

1532 In behalf of United Mine Workers of District No. 25:

CHAS. BATLEY, President.
GEO. MANUEL, Secretary.

Kansas City, Mo., Sept. 19th, 1910.

1533 Q. Now, in 1912, when you entered into this private agreement,—I mean in 1910, when you entered into this private agreement, did you understand the competitive conditions that you addressed yourself to in your examination in chief?

A. I was commencing to understand them a great deal better.

Q. How about the 1912 contract, for the years 1912 and 1914?

A. I was gradually acquiring knowledge as I went along.

Q. You grew in knowledge for the last four or five years before 1914 with reference to the competitive fields of the United States? A. Yes.

Q. Mr. Bache, is it not a fact that the Coronado Coal Company under the 1912 and 1914 contract entered into by and through its representatives, Mr. Denman operated the Coronado mine up to and including the 17th of May, 1914, and you paid the men for their work on that day?

A. No, I may have paid them on that day, that was the pay day, but they did not work up to the 17th day of May.

Q. When did they cease working?

A. They ceased working on April 6, 1914, I think, and I think they cleaned up after that and stopped work. I was very much occupied at that time at Mine No. 4 and didn't pay much attention to Coronado.

Q. You were occupied in getting these detectives down there and the Burns men down there, that was your job?

A. I was trying to get our men to be let work uninterrupted by your people.

Q. What did you say you were interrupted by?

A. I was there endeavoring to operate the mine without interruption from your people.

Q. Yes, and in order to do that, the first thing you did, you went out and got some Burns detectives and a lot of

1534 high powered guns? A. Five.

Q. And afterwards you got more, didn't you?

A. You are speaking of that time. I said five at that time.

Q. You were going down there to operate your mines?

A. Yes.

Q. And to dig coal with those Winchesters and with those detectives?

A. No, we were not digging coal with those Winchesters and those detectives.

Q. You say that the reason you went on the open shop basis is that you received a letter, that is, one of the reasons,—you received an unsigned letter from John Cameron that you referred to here the other day?

A. Yes, one of the reasons but not the controlling one.

Q. How long did you say he had been with you, two months, as your superintendent?

A. From the 15th of December I think, 1913, that is about three and one-half months.

Q. He had never had any connection with your companies prior to that time? A. No, sir.

Q. And his statement with reference to the enormous sums you lost during those years just came to him spontaneously, did it? A. I have no idea, I suppose he was informed.

Q. That letter purports to be written at the Main Hotel at Ft. Smith, Arkansas?

A. I think it is on the letter head of the Main Hotel.

Q. How far is it, Mr. Bache, from the Main Hotel across to your office? A. I think Garrison Avenue is 100 feet wide.

The Court: What letter is this?

Mr. Covington: The John Cameron letter that was unsigned.

1535 Q. Then how far is it from the sidewalk up to your office?

A. Oh, 150 feet, Mr. Covington. I don't know the exact distance. It is across the street.

Q. Then your superintendent came up here and wrote you a letter from the Main Hotel, 150 feet away, advising you of the horrible conditions in the mines?

A. The letter was written evidently at the Main Hotel and it was sent over to me.

Q. Was it mailed to you? Will you let me see the envelope? A. I think perhaps most likely it was handed to me.

Q. Who handed it to you? A. Mr. Cameron perhaps.

Q. Refresh your memory, Mr. Bache, and see if you cannot remember who handed you the letter and where it was?

A. I can refresh my memory no more than that. I have no definite recollection of it being handed to me through the mails or otherwise. I know I saw the letter.

Q. Yes, you have it here. Do you know why Mr. Cameron would not put his name to that letter?

A. No, I do not know that he would not.

Q. You know that he did not, don't you?

A. I know it was not on it.

Q. Did you ask him to sign it?

A. I do not recall doing so.

Q. What? A. I do not recall doing so.

Q. Well, will you say that you did not?

A. I do not recall asking him to sign it; in fact I did not know it was sent until I saw it here the other day.

Q. I understand that; but will you say that you did not ask him to sign it?

A. I have no recollection of either asking him to sign it or not asking him to sign it.

Q. You told him to write it, did you not?

A. I did.

1536 Q. That was a part of your general scheme in connection with the rifles and the detectives to carry on your business down there, was it? A. No, sir.

Q. You were then preparing for the very thing you are doing here today? A. I do not know what you mean.

Q. Suing for damages, A. I was not.

Q. How much insurance did you have on the Coronado Coal Company?

A. We had about $9,000.00 on the washer and about $10,000.00 on the tipple and buildings, not at the time the property was burned down. Some time in May the insurance policies had been cancelled by the insurance companies on the washer, but I think not on the tripple. They had either cancelled or they had expired and we were unable to renew them.

Q. After the destruction of the property did you make out a claim for the insurance?

A. I do not recall whether I did or not. That was during the receivership.

Q. I will ask you if you did not make out the claim and swear to it and sign it, to the effect that you did not know how that property was destroyed, and file it with the insurance company?

A. It was quite likely as Received I signed all of the papers in connection with it, but if you ask me for my memory, I am not very sure as to it.

Q. You reported,—you made out the report, didn't you, Mr. Bache, with reference to the destruction to the insurance companies?

A. I do not believe it is likely that I made it out. It was probably made out by one of the clerks in the office and signed by me, but I do not remember that.

Q. You generally read those before you sign them, don't you? A. Yes, I generally do.

Q. Now, did you read the report?

1537 A. I do not recall whether I read the report or not. There are a great many papers that the auditor or some clerk would put before me and say that it is a claim for this, that, the other, or what-not and this is the place to sign, and I sign them.

Q. You were so busy you could not take time to see what you were signing at that time, were you?

A. We were pretty busy in August, 1914, but I have no doubt I gave it all the attention it required.

Q. How much insurance did you have on No. 4?

A. I do not think we had any insurance on No. 4. I think it was insured in the name of the lessor, the Cherokee Construction Company.

Q. There was a provision in the lease that the insurance was to be turned over to you to reconstruct the property in case of fire?

A. Yes, in case of the destruction of the property, and if they collected the insurance it was to come back to us to be used in re-building it.

Q. They collected the insurance?

A. I do not know; we never received it from them if they did.

Q. You were receiver and you were present when that case was tried? A. No, sir.

Q. And you did not receive any report from the receiver on it? A. When was the case tried, Mr. Covington?

Q. I do not remember the exact date.

A. I was just trying to remember whether I was receiver at that time or not. I think I told Mr. Finley to go up there and hear the evidence and they excluded him from the court room under the rule and would not let him hear it.

Q. You got that report?

A. Yes, I got that report.

Q. It was tried in the spring of 1916, was it not, Mr. Bache?

1538 A. I do not know, I think it was earlier than that. It might have been, though.

Q. When did you have Mr. Cameron write that letter?

A. What is that?

Q. When did you direct Mr. Cameron to write you this letter you introduced in evidence?

A. I suppose about the time he wrote it.

Q. Did you dictate it? A. No, sir.

Q. Did you dictate any part of it?

A. Not that I recall.

Q. What was it that you wanted him to write you such a letter as that for?

A. I wanted an expression of facts and opinions as to the situation from other well informed people besides myself.

Q. You had been in both mines, hadn't you, for years, both union and nonunion?

A. Yes, sir, I was entering into a matter I knew was perilous and dangerous to our companies and I wanted to have the whole situation as well explained as well as I could before I took the step I was contemplating.

Q. And all Mr. Cameron said in the letter to you was that you were having to pay too much for narrow work and dead work, and the whole complaint was based on the wages you were paying the miners?

A. No, sir, I do not recall the letter read that way.

Q. You stated in your examination-in-chief that that was the only nonunion mine running in this section of the country, No. 4, when you opened it up; is that correct?

A. I think I made an exception, saying I believe there was one mine down at Spadra operating at that time.

Q. The Pennsylvania Mining Company you knew and have known all these years has been running an open
1539 shop down there within two miles of Spadra, in the anthracite field,—for six years? A. Yes.

Q. And you also knew when you testified here the other day, that one of your employes, Mr. Luper, had run a mine within a mile of your No. 4 as an open shop?

A. I did not know when I testified that Mr. Luper was running an open shop. I thought his was a union mine.

Q. And did you know that Mr. Beck was running a nonunion mine [with] three quarters of a mile of your mine?

A. If I knew they were nonunion mines, I had entirely forgotten it. They were not mines, but little pigeon holes that employed half a dozen men at the outside.

Q. Don't you know they employed 15 or 20 men?

A. No. I don't know how many men they did employ, but they were small.

Q. You did not pay any attention to those little, small mines?

A. Yes, I did pay attention to them when it was my business to pay attention to them, but that was not my business.

Q. I am trying to test your knowledge. Do you say you did not know they were running open shop?

A. I don't know that they were running open shop.

Q. Weren't they loading coal on one of your tracks and weren't you charging them rent for it?

A. I believe one of them was loading coal on one of the tracks belonging to the Midland Valley Railroad near our mines, it was not our track.

Q. And as soon as you established your open shop, really about the time you were establishing it at No. 4, you secured Mr. Luper's services and put him in there to assist you in the conduct and operation of the open shop mines?

A. Yes.

1540 Q. And you secured the services of Mr. Beck and put him in there? A. Yes.

Q. Is that correct? A. Yes, sir.

Q. I want to read you from Mr. Cameron's letter,—no, from your own statement. You say, that, first, that the difference in union and nonunion mines lies in the partial loss of control and management of operation by the operator?

A. Yes.

Q. Is that correct? A. Yes, sir.

Q. Now, the contracts which I have shown you and which have been indentified by you,—I will ask you if the terms and conditions of employment and the hours of labor and wages are not specifically set forth in those contracts? A. No.

Q. Name some of them in which they are not.

A. I do not think any of the contracts state the conditions in the separate mines; they just refer to the conditions existing in that mine at the time the contract was made.

Q. Conditions you had been going through with for years and know as well as you know the mining business,—isn't that true?

A. No, I am sorry to say that I could not keep up with all of the conditions, there were so many and no one knew them all.

Q. You did not pay much attention to the contracts you were making, is that the idea?

A. Yes, I paid a great deal of attention to them.

Q. Under those contracts that you have exhibited here that you say you entered into, who has the management of the mines?

A. The contracts say that the management of the mines, —read it, I cannot remember exactly.

Q. Read clause No. 1 of Section 4 of the contract of 1910 and '12. It is the same thing as in the other contracts.

A. "The management of the mine",—

1541 The Court: Just read it to yourself; it is already in the record. He is just calling your attention to it.

A. (continuing). I have read it a good many times before. I see the paragraphs you refer to.

Q. Who manages the mine under that clause of the contract?

A. The operator is supposed to manage the mine under the contract, but, as a matter of fact, does not.

Q. That is your contract, isn't it?

A. That is the contract.

Q. You manage the mine and you hire and discharge the men under that clause of the contract?

A. No, sir, it is subject to a great many further things in this contract and subject to many decisions outside of the contract.

Q. You made them, didn't you?

A. No, I did not make the decisions.

Q. You helped make them? A. No, sir.

Q. You agreed upon them?

A. I had to agree upon them. They were made by other people.

Q. You had to agree upon them? A. Yes.

Q. Who forced you to agree to anything?

A. If we did not agree to them we would be on strike, and if we tried to operate the mines without the union we would have had trouble.

Q. Isn't it a fact that you provided for an arbitrator to settle the differences and that you selected a mine foreman as an arbitrator, and he settled all of the differences you could not agree on with the men, and that man was John Steele, of Kansas?

A. I think he was an arbitrator, he was a member of the union.

Q. He was not a member of the union then?

1542 A. He had been a member of the United Mine Workers of America before, I think. We repeatedly offered to have an arbitrator appointed by the courts, this or that person, and we could never get the miners to consent to an arbitrator except someone who had been identified with the Miners and in sympathy with their movement.

Q. You wanted to select someone that did not know anything about the conditions, that you could handle.

A. No, sir.

Q. And you did finally select one of your own men, Mr. Steele? A. No, sir.

Q. The superintendent of a mine in Kansas and who had been for long years?

A. He was not one of our own men.

Q. He was conducting a mine for the operators?

A. Yes, he had been employed as mine foreman for a day or so.

Q. Didn't he appear at the conference as a representative of some Kansas mine he was representing?

A. I never heard of his doing so.

Q. You say that the development of the entry of coal mines requires the driving of entries known as narrow work? Isn't that covered by the contract?

A. The prices to be paid are covered by the contract, or various agreements attached to the contract,—several volumes of them.

Q. You also assigned as a reason, in your examination-in-chief, why nonunion mines are more profitable than union mines, is that two men, and some times three, can work in a place, whereas they work only one? A. Yes, sir.

Q. That is a rule as old as coal mining, that you brought into the contract from nonunion conditions?

A. What rule?

Q. The rule you are now following and have been
1543 following for years; you carried it into the contract of 1903, 1904, 1906, 1908, 1910, 1912 and 1914?

A. What rule do you mean? State it to me.

Q. Not more than one man shall work in a working place?

A. Yes, in some mines in Arkansas they work two men in a working place, and in other mines they only work one man in a working place. And the contract we entered into in 1910,—I made an express agreement with Mr. Stewart we were to have two men in a working place, and he violated the contract in no time and boasted of it.

Q. They did not just abolish it and get a lot of detectives to stand around?

A. They did not have to; they had about two thousand men to stand around.

Q. Going back to the contract of 1903, Exhibit 1, the second clause on page 3 reads as follows: "All entry, yardage and deficient work shall be advanced 12½ per cent, and the same rule and custom now existing in District 21 shall be continued in force during the life of this agreement." Those were the conditions and customs and rules of nonunion mines? A. No, sir.

Q. Don't you know there was but one nonunion mine in Oklahoma, and that was at Coalgate, Oklahoma?

A. No, that is not correct.

Q. Are you certain about that?

A. Yes, I am certain about that; and while I am not sure of it, I can remember certainly that practically every mine in Arkansas at the time that contract was made was operating union.

Q. Did the Central Coal & Coke Company have a contract with you at that time?

A. They were operating their mines union.

1544 Q. They did not have any contract with the union at all, did they?

A. They were operating their mines with union men. I do not know whether they had a contract or not, but they were operating on a union basis.

Q. That is, they were paying the scale only, that is what you mean?

A. Paying the scale and working under union conditions.

Q. Was the Western Coal & Mining Company operating its mines with union labor? A. Yes, sir.

Q. The Western Coal Mining Company was then operated by the Missouri Pacific?
A. Yes, they started up union in the spring of 1903.
Q. Werent they then on an open shop basis, and didnt they on more than one occasion ship into this state several carloads of niggers to take the place of striking miners?
A. Not in 1903.
Q. What year did they?
A. I never heard of it, but I know not in 1903.

Mr. McDonough: I object to that; I do not know what bearing that has on this case.

The Court: My own idea is that about three-fourths of this is improper cross-examination; but I have not said anything about it. This witness did not pretend to cover many of the fields specified that you have gone into here, and of course under the rule as to cross-examination it is limited to that which has been covered by the direct examination.

Mr. Drinker: We did not feel disposed to object to any of the questions.

The Court: I presume you are correct and if it is
1545 going to be gone into it might as well be done one time as another.

Q. The railroad cars you have testified about in your direct examination being placed and the miners would not go down,—I believe you stated that if there were not enough cars to last all day they would not go down; is that correct?
A. I do not recall. You will have to read exactly what I said.
Q. Is it true they would not go down?
A. I think the provision about them going down on railroad cars is "Unless there is sufficient cars to run a fraction of the day",—I have forgotten just what,—they wont go down whether the company tells them they are coming or not.
Q. I will read you Section 17, clause 1, of Exhibit 12,—from the 1912 contract:

"When an adequate number of empty railroad cars are at the mines at the starting time in the morning to work one-quarter day, and the operator has assurances from the railroad company that more cars will be placed at the mine before the empty cars already at the mine are loaded, then all employes shall go to work."

How much is a quarter of a day? A. Two hours.

Q. That is the contract you had. Another reason you assigned why it was more profitable and desirable to run a nonunion mine is that if a person dies,—I will read you from your direct examination: "Yes, sir, under union conditions, if a person dies, not necessarily an employe of the mine, but some child, or person dies in the mine community, or nearby to a mining community, the miners will frequently refuse to work the mine the day of the funeral, or occasionally the day after the death, on the day before the funeral, but generally the day of the funeral. In my observation very few of the miners go to the funeral, except those in the immediate family, and in the meantime the operator has to keep the mine pumped out, and keep all his monthly force on wages, and no production or sale of coal to help pay the expenses."

1546

I want to read you Section 15 of Exhibit No. 12, the contract of 1912, as follows:

"1. In the event of an instantaneous death by accident in the mine, employes shall have the privilege of discontinuing work for the remainder of that day only. Work, at the option of the operator, shall be resumed the day following and continue thereafter. In case the operator elects to operate the mines on the day of the funeral of the deceased as above, or where death has resulted from an accident in the mines, individual employes may, at their option, absent themselves from work for the purpose of attending such funeral, but not otherwise, and whether attending such funeral or not, each member of the U. M. W. of A. employed at the mine at which the deceased member was employed, shall contribute fifty (50) cents and the operator twenty-five ($25 dollars for the benefit of the family of the deceased or his legal representatives, to be collected through the office of the company. In the event that the mines are thrown idle on account of the employes' failure to report for work in the time intervening between the time of the accident and the funeral or on the day of the funeral, then the company shall not be called upon for the payment of the twenty-five ($25) dollars above referred to."

1547

That contract does not provide,—you state "If a person dies, not necessarily an employe of the mine, but some child or person dies in the community, or nearby", etc. This only provides that it is in the case of some co-laborer?

A. That is the way the contract provides, but it is not carried out that way. The contract is violated in that particular frequently.

Q. You established a court to determine those things, did you not? A. You mean the arbitrator?

Q. Yes, sir; every contract that you have had provided the courts in this organization to which these various grievances shall go and be determined?

A. Yes, it provides the courts.

Q. And you helped make them?

A. Yes, we helped make them, and the violations are so frequent in so many particulars, time after time, that we let the things go, because the courts were so busy they could not tend to the things; unless it was a more important matter than shutting down a mine one day we let it go.

Q. You assigned that as a reason why the nonunion mine was more profitable, and you mean that you could get more men to work on the day of funerals?

A. We not only had the men stop work when it was in the case of a funeral in his own family or among his own friends, but it often happened, and this is what we objected to, that 200 or 300 men would stop work on account of a funeral that they did not attend.

Q. Paragraph 2 of this particular section reads as follows:

"Except in cases of fatal accidents, as above, the mine shall in no case be thrown idle because of any death or funeral, but in case of the death of any employe of the
1548 company or member of his family, any individual miner may, at his option, absent himself from work for the purpose of attending such funeral, but not otherwise."

You have got a penalty clause and if they fail to comply with the terms of it, they are fined?

A. Sometimes.

Q. (By the Court) You establish it yourself?

A. They all claim, when that thing was brought up, that they were absent for other reasons and they did not have to work that day unless they wanted to, and they all happened to be out and the mine was shut down. We do not complain of that clause in the contract, but we complain of the violation of it.

Q. Name the number of days that either one of your mines of the plaintiffs here was ever closed down because of the men attending funerals, under the conditions you have mentioned?

A. There were several days betwen Septembr, 1913, and March, 1914, when one mine or another was shut down.

Q. Name them? A. The Coronado mine.

Q. Who was killed in the mine?

A. I do not recall. I can get that information for you probably; and that was only from September of one year to March of the next year.

Q. Was that on account of an outsider dying?

A. Yes, some outsider, and some employes of the mines.

Q. Name some outsider?

A. I would have to refer to some notes.

Q. Well, refer to your notes and name some?

A. I am sorry I have not got the notes here. If you will give me about ten minutes I will get them for you. However, there were seven days between that time and March, 1914,—between September, 1913, and March, 1914,
1549 when the mines were shut down on account of funerals. I will let that stand.

Q. That is the Coronado?

A. Not the Coronado, all of the mines,—in all of the mines we had in Arkansas they were seven days they were shut down because of funerals.

Q. In how many months?

A. From September, 1913, to February or March, 1914.

Q. About six or seven months? A. Seven days.

Q. Seven days out of six or seven months?

A. Yes, sir.

Q. To attend funerals? A. Yes.

Q. Now, do your notes disclose that this was on account of outsiders, or were those covered by the provision of the contract I have read?

A. Some were of outsiders and some of employes of the mine, which did not provide for the mine being laid idle because an employe died.

Q. Do you recall the number of days the Coronado laid idle?

A. No, I do not remember how it was divided up. There were two or three to each one.

Mr. Covington: Mr. Stenographer, will you mark this as an exhibit for the defendants?

(Document produced as referred to marked Defendants' Exhibit 14.)

Q. I hand you Defendants' Exhibit No. 14 and ask you what it is?

A. It is the certificate of incorporation of the Coronado Coal Company.

Q. Who are the incorporators of the company?

A. Ransom Gulley, F. Bache, T. W. M. Boone, P. A. Ball, A. S. Dowd.

Q. T. W. M. Boone is the President of the American National Bank? A. Yes, sir.

Q. And also President of the coal Company?

1550 A. No, sir, I do not think so,—no, sir he was not.

Q. P. A. Ball is cashier of the American National Bank?

A. Yes. Ball and Dowd were clerks in the bank.

Q. You borrowed the $80,000.00 you referred to this forenoon from that institution of which Boone was president and Ball and Dowd cashiers,—you borrowed the money from that bank, the $30,000.00 you referred to this forenoon?

A. Yes, but I think the money was borrowed mostly before Boone was president.

Q. Did you lose money,—did these plaintiffs lose money on the operation of the mines from the time they went into it up to the time they closed down?

A. Some years they made money and other years they lost money; Some months they made money and some months they lost money.

Q. Do you know how much money the Coronado Company made during the first years it operated?

A. No, sir, I cannot tell you what it made. It did make money the first years it operated.

Q. Do you know how much the Prairie Creek made?

A. I do not know. The Coronado made money and I think the Prairie Creek lost money steadily.

Q. Mr. Bache, did either of the plaintiff companies, when they opened up operations in the state of Arkansas, have any capital upon which to open their mines, that they did not borrow?

A. Yes, I think they all had capital.

Q. Where did they get it?

A. Oh, capital we did not borrow? Let's see, the Mammoth Vein Mine, Mr. Denman and I put cash into it and partly developed it; and in the Denman Coal Company we put about $40,000.00, I believe, into that. The Coronado Coal Company we put a considerable amount of money into, I think.

1551 Q. Can you state how much money and property the Prairie Creek Coal Mining Company had when it took hold of the lease from the Cherokee Construction Company?

A. No, sir, I cannot.

Q. When did the Mammoth Vein Coal Mining Company, the one that was operating No. 4, on the 17th of July, 1914, enter the state of Arkansas?

A. Probably at the time it was organized, whatever year that was; I do not recall. You have the papers there.

Mr. Covington: That is all, I believe.

Redirect Examination

By Mr. Drinker:

Q. Mr. Bache, considerable has been said here in connection with the fact that the Mammoth Vein Coal Mining Company was what was termed by counsel a "hundred dollar corporation"; will you kindly explain the relations between the Mammoth Vein Coal Mining Company and the Mammoth Vein Coal Company, and explain what significance, if any, the amount of the capital stock of the Mammoth Vein Coal Mining Company had?

Mr. Covington: We object to that, if your Honor please; it is just a similarity of names, and this is just calling for a matter of argument. There is a vast difference, however, in the stock of the corporations.

The Court: The objection is overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

A. The Mammoth Vein Coal Company had owned at first a piece of land along the outcrop of the coal land, and the coal was from six to eight feet thick, probably the thickest piece of coal in the state of Arkansas. The acreage of the land which it originally owned was not great, but when the mine was opened and expenditures made on the
1552 plan, which were very large, it was the expectation and intention to operate through,—by means of that mine, and the machinery, to take out the coal on a very large, a very much larger area of land which laid to the dip, and which could be connected underground with the workings of the Mammoth Vein Coal Company. Otherwise they would have been very foolish to have expended the money and put in the sized plant we did at the Mammoth Vein Mine for the comparatively small acreage that was there to start with at that time. This land that laid to the dip consisted of some 360 acres and was owned by the Cherokee Construction Company, which was a subsidiary company of the Midland Valley Railroad and we thought or knew that we could get the right to take the coal off of this land laying below. We only had about 70 acres underlaid with coal, and there was 360 or 340 acres lying below it. On account of this large amount of coal lying below, we considered ourselves justified in putting in an extensive plant and also in building a spur track of a mile and one-half in length from the Rock Island Road, so as to ship over two railroads and built an additional tip-

ple. All of this was built on the expectation that eventually we would take out the coal from this underlying land.

In order to be sure we had that coal, we decided to lease it and to make a contract with the Cherokee Construction Company, that is the railroad interests, to assure us this plant would have a long life and plenty of coal to take out for a long term of years, and therefore we decided to make a lease and did make a lease and we decided the best way to do that would be not to make a lease direct to the Mammoth Vein Coal Company, but to make the lease to a subsidiary of the Mammoth Vein Coal Company, and
1553 we called it the Mammoth Vein Coal Mining Company. And the stock of the Mammoth Vein Coal Mining Company was acquired by the Mammoth Vein Coal Company.

Now, this lease provided that we should pay $2400.00 a year whether we took out any coal or not. When we did take out coal we were to pay 8 cents a ton on any coal taken out and if we mined 30,000 tons which amount to 2400.00 a year, that took up the dead rent, we did not have, in other words, to pay both, but if we were not getting our coal we had to pay this dead rental of $2400.00 a year. The Mammoth Vein Coal Company from time to time loaned the Mammoth Vein Coal Mining Company the money to pay these dead rentals.

We leased this property, but our entries and slopes were out of the Mammoth Vein Coal Company and into the leased property, and it was very important to the Mammoth Vein Coal Company that it should control this lease, and the lease was gotten through the Mammoth Vein Coal Mining Company and the stock was turned over to the Mammoth Vein Coal Company in order to insure the life of that Mammoth Vein Mine, which I said was a large and expensive operation.

Q. Who owned the stock of the Mammoth Vein Coal Mining Company when you made the lease from the Cherokee Construction Company?

A. The Mammoth Vein Coal Company, is my recollection.

Q. Did the Cherokee Construction Company, when they made the lease to the Mammoth Vein Coal Mining Company, know the method of organization which you have described?

A. I presume they did. I don't know anything about that.

Q. They were willing to make the lease to the Mammoth Vein Coal Mining Company?

A. They did make the lease to the Mammoth Vein Coal Mining Company.

1554 Q. When the Mammoth Vein Coal Company owned all of the stock of the Mammoth Vein Coal Mining Company, did it make any difference how much that stock was, whether it was one hundred dollars or a million dollars, so long as they owned it all?

A. No.

Mr. Warrum: The defendants severally object to that question of calling for a conclusion legal in its nature.

The Court: The objection is sustained and the answer stricken out .

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Q. You have testified on cross-examination in connection with various loans and notes and transactions in which you have stated that it was your best recollection; do you mean to testify accurately as to any of those transactions, or subject to correction, provided your recollection is not verified by any actual papers?

A. I am testifying merely as to my best recollection subject to correction from the books of the company when I have refreshed my memory by an inspection of the papers.

Q. Now, counsel has asked you some questions relative to the forfeiture of certain of your leases in a procedure in this court. Do you know on what ground those leases were forfeited in that proceeding? You were asked as to the exact grounds, as to whether they were forfeited on those grounds. On what grounds were they forfeited?

A. On the grounds of insolvency of the companies.

Q. What was it that precipitated the insolvency of the companies?

A. The destruction of their property.—

Mr. Warrum: The defendants except.

1555 Mr. Drinker: When counsel starts to make an objection, do not answer, Mr. Boche.

Mr. Warrum: The defendants severally object to the evidence sought to be introduced by this question on the ground that it calls for a conclusion on the part of the witness.

The Court: The objection is overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Warrum: And for the further reason the question calls for the interpretation of the witness as to one of the material and issuable facts involved in the controversy.

The Court: The objection is overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Drinker: Read the question, Mr. Perkins.

Stenographer Perkins reading: Counsel has asked you some questions relative to the forfeiture of certain of your leases in the proceedings in this court. Do you know on what grounds those leases were forfeited? You were asked as to certain grounds; do you know on what grounds they were forfeited?")

Mr. Drinker: He answered that question; the next one.

(Mr. Perkins: No other question was asked.

Q. Do you know what it was which precipitated the insolvency of the companies? A. Yes, I do.
Q. What was it?

Mr. Warrum: The defendants severally desire to renew the objection just stated.

The Court: Objection overruled.

To which ruling of the court the defendants, and each
1556 of them, then and there duly excepted and still evcept.

Q. Answer the question, Mr. Bache.
A. It was because of the destruction of the property which they owned in July, 1914.
Q. Now, in answer to questions by counsel for the defendants you stated, I believe, that at the time of the destruction of the property in July, 1917, these companies here in Sebastian County, the Arkansas companies, owned in the neighborhood of $500,000.00. Approximately how much of that $500,000.00 was owed to the Kali Inla Coal company?
A. $300,000.00.
Q. And was any of it owed to the companies among themselves? A. Yes.
Q. Well, how much of it was owed to parties other than the Kali Inla Coal Company, to these companies among themselves?
A. Between one hundred thousand and one hundred and fifty thousand dollars.

Q. Through the period from 1903, to April, 1914, did you use any efforts to promote the signing of contracts with the union, by your companies, or by any other persons?

A. No, sir, I did not.

Q. What was your attitude and endeavor in that regard?

Mr. Warrum: The defendants desire severally to object to the evidence [sough] to be introduced by the question, because it calls upon the witness to characterize and put an interpretation upon his attitude. The facts it seems to me, should be stated.

The Court: The objection is overruled; as the court understands the question it calls for what was done.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

1557 Mr. Drinker: My thought was to correct the impression which a question of counsel for the other side gave, that Mr. Bache was endeavoring to secure union conditions, to promote the Southwestern Operators' Association, and trying to get contracts signed up with the union. I want to find out just exactly what he was doing. It is the same question counsel asked that we did not object to.

Mr. Warrum: We would like to have the question read.

(By stenographer Perkins: "Through the period from April, 1903, to 1914, did you use any efforts to promote the signing of contracts with the union companies, or by any other persons? A. No, sir, I did not.

Q. What was your attitude and endeavor in that regard?"

Q. Answer the question, Mr. Bache.

A. No, I never promoted or wished these relations promoted between our mines and the United Mine Workers of America. In 1903 the mines in Oklahoma and Arkansas had largely been unionized and in 1902 and 1903, and before that, I actively opposed the organization of the mines into closed shop mines. At no time did we enter into contractual relations with the United Mine Workers of America willingly. It was always because we feared to open our mines on an open shop basis, and thought that it was better financially for the companies to suffer the draw-backs of the union than to risk destruction of property or the loss of life by violence.

In 1910 we made an effort to open,—to run open shop at the Mammoth Vein Mine for one or two days, and our men were scared off. And again in 1914 we finally decided that

we would discontinue relations with the United Mine Workers and did so; and at no time did we wish to have relations with them.

1558 Q. Now, in connection with your examination, relative to this paper, Defendants Exhibit 11, which is the contract of August 10th, 1910, between certain companies and the United Mine Workers, you referred to a conversation that you had with Mr. Stewart, and you gave the date of it; the month and the year. I think you made a slip of the tongue, and I will ask you what date it was that you had that contract, what year was it that you had that contract with Mr. Stewart?

A. This 1910-12 contract?

Q. What date was it that you had the conversation with Mr. Stewart relative to the time when you signed up this contract with the union, and were, as you stated, expelled from the association that same afternoon. What year was that? What year did you mean that was?

A. 1910.

Q. And when you said 1914, you didn't mean 1914?

A. No, this was 1910 contract; if I said 1914 in connection with this contract I clearly meant 1910.

Q. Now, how did you happen to employ Mr. Cameron in November, 1914, what did you know of his previous history?

A. I think it was in December, 1914.

Q. Whenever it was, what did you know about his previous experience and history at that time?

A. He was a mining engineer, and a son of old Mr. William Cameron, who was United States Mine Inspector in Oklahoma, and before that had been superintendent of the Osage Coal Company at Krebs, and was a very fine old gentleman, and I knew John then as a youngster, since I knew the old man, and I had kept track of John, John went to a mining school and became a mining engineer, and I kept up with him in a general sort of way, his where-

1559 abouts, and what he was doing; and we needed comebody at that time and I employed him.

Q. Reference has been made to the fact, by counsel for the other side, that the Kali-Inla Coal Company was made—that you testified that Kali-Inla Coal Company made on an average, I believe of $35,000.00 a year, and that they never paid a dividend. Now, if the Kali-Inla Coal Company had paid dividends during these years,—first, how many years did that cover?

A. Up to 1914, it covered about ten years, nine or ten years.

Q. Now, if the Kali-Inla Coal Company had paid a dividend during any of those years, who would have got the the dividend?

A. The Bache-Denman Coal Company would have gotten 70 per cent of the dividend, and Mr. Jackson would have gotten thirty per cent of the dividend.

Q. And of the 70 per cent that was gotten by the Bache-Denman Coal Company, if they had declared a dividend, who would have got that?

A. The stockholders of the Bache-Denman Coal Company, who were Mr. Denman, Mr. Hilling and myself.

Q. Now, did Mr. Jackson know, during this ten years, that the Kali-Inla Coal Company, instead of investing its profit in dividends, was loaning it to other Arkansas companies?

A. He did.

Q. Did that have his approval? A. It did.

Q. Now, instead of dividing the earnings of the Kali-Inla Coal Company, during that period, what did the Kali-Inla Coal Company do with their earnings.

A. It loaned them from time to time in various amounts to other Arkansas companies for the purpose of opening and developing and operating and employing men in Sebastian County Arkansas, in the hopes of getting more money
1560 back than they put in eventually.

The Court: I think it is perhaps time for the usual five minutes recess.

(A recess was here taken of five minutes.)

Mr. Drinker: We have finished our re-direct examination.

The Court: Is there any rebuttal, gentlemen?

Mr. Covington: No, sir.

(Witness excused.)

Mr. Warrum: I understood that so far as the published documents of the National Organization are concerned, that plaintiffs counsel are through, with the exception of the book that they misplaced, and we are ready to proceed.

Mr. Drinker: We are through with that particular line of examination for the time being, but we don't want to be understood as waiving any right to further introduce parts of those books.

Mr. Warrum: We don't want to proceed with our cross-examination unless they are through.

Mr. Drinker: As far as I know, we are through with the other books, but we don't want to say that we will never introduce anything further from them.

Mr. Warrum: I am willing, so that the Court will see there is nothing captious about our actions, if—

The Court: I apprehend this, that counsel's attitude, as it has been shown here, is one of uncertainty, because they are not thoroughly familiar with what is in there. They might find something in there that they would want to put in on another branch of the case. I think perhaps it would be just as well for you to put in your cross-examination.

1561 Mr. Warrum: Up to date?

The Court: Yes, up to date, and another thing, it would be better to have it in before the other side supplants it by other testimony.

Mr. Warrum: Now, the defendants offer, from the report of the annual convention of the miners, January, 1903, Volume marked Exhibit 29 A, from the report of Vice President Lewis, on pages 53 and 54, as plainly marked.

Mr. Drinker: Now, if your Honor please, we have offered quotations from these various volumes on two or three different branches of our examinations, and may I ask in reference to what portion of the examination-in-chief this particular passage is offered as cross-examination?

Mr. Warrum: If the Court please, they have introduced [exceprts] after excerpt from the report of the officers, and we are now reading from the proceedings of the annual convention of the miners, indicating their policy, indicating their policy with particular reference to the organization of the West Vrginia field, and their purpose and all that.

The Court: I think it is entirely within your right on cross-examination.

Mr. Warrum: In order that the jury may understand what was in the minds of the national organization.

The Court: In these books, I think it will simplify matters somewhat for me to state my attitude now. This sort of testimony has always been the sort of some uncertainty, but so far as the Circuit Court of Appeals is concerned, it was definitely settled in the Jim Jam Gem case in North Dakota. Judge Willard, who is now dead, tried the case, as I now re-
1562 member it, and he permitted them to pick out excerpts from the book, I think, conceding that the whole little

article, whatever it was, went in from the book. The objection was made, because the entire publication, or the volume was not put in. I say a volume, I never saw but one, but I think a book something like this printed book, and Judge Williard refused to admit it, and the Court of Appeals went into that, they were convicted for unlawful use of the mails, and the Court of Appeals passed on it squarely, that the entire book was competent upon the presentation of a part of it. Where motive and intent are the question. Now, that is the question upon which the greater part of this has been admitted.

Mr. Warrum: And it is stronger in this case than in the other, although I am not familiar with that case.

The Court: There was motive and intent, that had to be gleaned, and it depended upon an interpretation of what was written.

Mr. Warrum: And that is the reason why excerpts from long speeches can prove almost anything.

The Court: But that case settles the particular matter in controversy here, and I am of the opinion, that having introduced—the Court having permitted the introduction of excerpts from various articles in these books, or proceedings, then so much of it as pertains to this case can be introduced by counsel on cross-examination.

Mr. Warrum: We have tried to boil it down.

The Court: I don't wish to include in this case news matters and that which is entirely immaterial, that could not possibly be considered.

1563 Mr. Drinker: I don't think that we will have any objection to anything in this book, except perhaps the harrowing details in other fields than this. We may have objection to some of them, but I don't know that we will at this time. I was merely trying to ascertain, when an excerpt was introduced, the purpose for which it was introduced. This particular [exceprt] is offered, from the proceedings of 1903, and according to my notes, I did not offer anything from that year, but I don't object to that, but I would like to know what they are trying to introduce it in contradiction of.

Mr. Warrum: We are trying to proceed in accordance with the directions and admonition of the Court, and I don't recall everything that we have in there, but if there is any extracts in ours, containing harrowing details we will pass it to counsel before we read it.

The Court: The defendants are, the Court has held, entitled to any and all articles showing purpose and intent. That is the thing that is to be judged.

Mr. Drinker: I didn't make my view as objecting, but merely as a question.

The Court: I understand that, but I thought that a little discussion might open the way, and clear it and save time. Now proceed, gentlemen, I am sure you understand.

Mr. Warrum: We first offer the annual convention of the miners in 1903, Volume marked Exhibit 29 A, from the report of Vice President Lewis, found on pages 53 and 54.

(Which said extract is in words and figures as follows, to-wit:)

1564 Mr. Neal (reading): "After a bitter struggle the United Mine Workers have established a nucleus of an organization in West Virginia, for the first time in that state, operators recognizing the right of their employees to organize.

The work has only begun and I desire to reiterate what I said in my report of one year ago, "That West Virginia can not be organized in a day or a month, and if we hope to organize that state permanently it must be by a steady and persistent effort."

The men who will have charge of organizing West Virginia must be competent to do more than organize the mine workers of that state. They must be able to enlighten the mine workers as to the real purpose of seeking to induce them to become a part of our National Union.

Our organizers must be competent to meet the operators of West Virginia and discuss intelligently every phase of our present system of organization, explain its effects on the mining industry of that state, and also explain the relation of the operators of West Virginia will occupy with those of other states under organized conditions.

I found in all my travels in West Virginia that the operators of that [syate] were fearful that in some manner we were attempting to organize that state in order to drive them out of business.

When the operators of the Kanawha Valley were convinced that they were mistaken as to the real object of our organization, there was not so much trouble in making settlements on a basis of no discrimination against union men.

I firmly believe that when the operators of West Vir-
1565 ginia, are better acquainted with the objects of the United Mine Workers of America, and the joint movement method of doing business by the operators and miners, and present opposition to the men of that state becoming members will vanish."

Mr. Warrum: Now, I would like to introduce and have read in evidence from the minutes of the annual convention of the United Mine Workers of 1904, found in the Volume marked 29 B, extracts from the report of President Mitchell, found, and plainly indicated by pencil marks on pages 22 and 23.

Mr. Neal (reading): "Before entering upon the subject matter of my report, permit me to express my feeling of very great pleasure at the presence here of so many representatives, and to voice the hope that this convention, like those that have preceded it, will be guided by wisdom and foresight, and that the result of our deliberations may redound to the advantage of the great cause we have the honor to serve. Participation in a convention of this nature carries with it no small degree of responsibility. Committed to our care are the interests and the welfare of a constituency whose number is legion. Our actions must be such as to fulfill their reasonable anticipation; our conduct must be such as to reflect credit upon ourselves and upon the whole trade union movement, of which we form so important a part. We should keep in mind the enemies of labor and the opponents of trade unionism, as Alliance, are ever ready to make capital out of the smallest indiscretion and to magnify out of all reasonable [proportiin] the slightest mis-
take that trade unionists may make. We should be
1566 moderate in speech and conservative in action, though firm and insistent upon our rights as citizens and the recognition of our just demands.

Joint Conventions and Extension of the Trade Agreement.

At the close of our last annual convention, the representatives of Districts Nos. 5, 6, 8, 11 and 12 met in joint conference with the operators representing what is called the Central Competitive Coal Field, comprising the states of Illinois, Indiana, Ohio and the western part of Pennslyvania, for the purpost of formulating a contract governing wages and conditions of employment for the scale year ending March 31, 1904. This conference lasted for ten days, and ended in an agreement whereby the scale for mining screened lump coal was advanced ten cents per ton, with a proportionate advance for mine run coal, dead work and day labor."

Mr. Warrum: Now, from the same exhibit, and the same report of President Mitchell, on pages 27 and 28.

Mr. Neal (reading): "West Virginia.

The joint conference method of adjusting wage differences and regulating the conduct of industry, which has proved so satisfactory wherever fairly applied, was extended into the state of West Virginia, and at the present time approximately 8,000 mine workers in the Kanawha district are working under a contract the terms of which provided for increased wages and a nine-hour workday. While the operators in the Fairmount district, the Norfolk and Western fields, and other parts of West Virginia still continue their unceasing hostility to our organization, I have every reason to believe that the
1567 time is not far when the United Mine Workers of America will be officially recognized in this territory, and industrial peace will be established and secured, through the operation of the joint agreement.

Southwest.

By far the most important extension of the joint conference was that which resulted in the formulation of an agreement between the miners and operators of the states of Missouri, Kansas, Arkansas, and the Indian Territory.

For more than four years the operators producing about two-thirds of all coal mined in Missouri and Kansas and practically the entire output of Arkansas and the Indian Territory, had refused to enter into contractual relations with our organization, and had repelled every effort we made to adjust disputes by mediation, conference, or conciliation. It is, therefore, particularly gratifying to report the complete recognition of our union, a substantial increase in wages, and the establishment of the eight-hour [worki-day] in that field. The agreement secured provides a uniform scale for all classes of inside and outside day labor, including engineers, blacksmiths, firemen and carpenters; but what is of more importance is the fact that arrangements have been made for future conferences which promise a long period of industrial peace to the miners and operators of these districts."

Mr. Warrum: On page 30 and 31 of the same volume.

Mr. Neal (reading): "Strikes.

I regret to report that during the past year the mining industry has not been entirely free from strikes, although they

have been extremely few in or where employers have
1568 recognized our representatives and entered into contractual relations with us. And in no instance has a strike taken place in advance of which we have not made overtures for peace and [exhaubsted] every conciliatory measure at our command.

Colorado Strike.

In the states of Colorado and Utah and the territory of New Mexico, both union and non-union mine workers, unable longer to endure the hardships and impositions incident to their employment, and failing to obtain relief or even a hearing from the representatives of the coal operators who control production in these states, were compelled to seek, through a strike, number in those districts or states in which our union is firmly established that redress which was denied them in their overtures and appeals prior to its inauguration. The strike in District 15, has been, and is, a source of heavy expense to our organization but our people are standing firm, and much as we desire an amicable and honorable settlement, the uncompromising attitude of the companies leaves us no choice but to ontinue the contest until fair terms of settlement are reached or our people go down in defeat."

"It has been the policy of your officers to maintain peaceful relations with the mine owners, adjusting all differences in the manner prescribed by our laws and the declaration of principles embodied in our constitution. We have sought to avert strikes whenever possible, but there are times and circumstances when the integrity of our organization and the interests committed to our care are so involved as to render it more honorable to strike than to accept em-
1569 ployment upon conditions dictated solely by the operators; and while we may not succeed in every strike in which we are compelled to engage, yet it is always better to resist injustice than meekly to submit to it. To paraphrase the words of Tennyson, it is better to have [reisted] and lost than not to have resisted at all."

Mr. Warrum: Now we will offer from the minutes of the United Mine Workers of America Convention of 1906, the same being found in the volume introduced herein as Exhibit 29 C, on pages 53 and 54 as marked, from the report of President Mitchell.

Mr. Neal (reading): "In the opening paragraphs of this report, reference was made to the obstacles we have encountered in the work of organization. Lest our language be misunderstood when we speak of "Open foes and professing friends", I desire, even at the risk of giving offense and inviting controversy, to say that we have been attacked from two sources which one would expect to be diametrically opposed.

First, we have had the intense opposition of the Parry-Post aggregation of union wreckers, who have antagonized every effort we have made to organize the non-union fields of the country, especially the Irwin, Connellsville and Meyersdela districts of Pennsylvania, the Georges Creek district of Maryland, the state of Colorado, and the two Virginias.

Second, we have been opposed with equal vigor—although with different weapons—by an organization styling itself the Industrial Workers of the World and by its principal affiliated body, the Western Federation of Miners.

1570 The recognized spokesman of these organizations profess great solicitude for the welfare of the coal miners; they seek to convey the impresison that the coal miners are so densely ignorant that they are unable to conduct their affairs or successfully to manage an organization of their own choice. Indeed, these self-constituted advisers, none of whom, to my knowledge, ever worked in a coal mine in his life and [mot] of whom have made failures of the several organizations with which they have been connected, justify their attacks upon us by saying that we make trade agreements which so tie the hands of our members as to render us unable to strike at any time during the year when conditions would seem propitious. They lose sight of the fact that if we had no agreements and were therefore at liberty to strike at our own sweet will, the operators would have precisely the same right. They could lock us out whenever trade was dull and the ultimate consequence would be that we and our employers would be in continuous conflict.

These men are evidently not familiar with the history of the mining movement or else they are not honest in their professions of friendship for us. It does not [reauire] a long memory to go back to the time when, to our sorrow, we followed the course which they advise us now to pursue. As a matter of fact, for more than half a century the coal miners of this country fought and supplicated for the right and privilege to determine, with their employers, the conditions

under which work in the mines should be performed. As long as I can recollect, the coal miners have demanded that their wages, hours of labor, and conditions of employ-
1571 ment should be mutually determined between themselves and the operators, and incorporated in a trade agreement for a given length of time; and even at this moment the miners of the anthracite fields are bending every energy to place themselves in the position we now enjoy.

But these alleged friends are not satisfied with giving us the benefit of their gratuitious advise, they have sent their representatives into the organized districts in which we have wage contracts and have attempted, with some slight success, to establish local branches of the Industrial Workers of the World; and this in spite of the fact that when this world-wide organization was first launched upon an unsuspecting public, it was proclaimed that its purpose was not to invade the already organized fields or transcend the jurisdiction of the established trade unions, but rather to bring within its benevolent fold the millions of unorganized and underpaid workers of our country.

It is not my purpose to attack or antagonize the legitimate functions of any organization that is formed for the betterment of mankind, but I do protest against the action of these men who, sailing under the flag of labor and friendship, would disrupt, if they could, the manificent organization it has taken us so many years to build."

Mr. Warrum: I will next read in evidence from the proceedings of the annual convention of United Mine Workers for 1907, the same being marked Exhibit 29 D, from page 270, and an extract from the report of the Committee on Officers Reports; together with an extract on page 272, showing the adoption of the report, both being clearly marked with pencil. (Reading):

1572 "Policy of the Future.

Your committee approves of our President's recommendation on this vital question, and would also recommend that our International officers be empowered to negotiate with the operators of the central competitive field for an interstate meeting, to be held sometime prior to the expiration of our present contracts. We further recommend that this convention instruct our officers to make a reasonable effort to secure the admission of all soft coal producing States desiring admission to the joint interstate movement."

"The motion to adopt the report of the Committee on Officers Reports was carried by a unanimous vote."

Mr. Drinker: May I see that a moment before you go on?

Mr. Warrum: Before I go on?

Mr. Drinker: Yes, sir.

Mr. Warrum: I am giving you the pages.

Mr. Drinker: I was looking back to see what part of the President's report they were talking about.

Mr. Warrum: You can look it up.

Mr. Drinker: It may be all right as it is.

Mr. Warrum: We will read the entire report of the President.

The Court: I don't think that is necessary, he just wanted a little time to know where he is at.

Mr. Drinker: I work as fast as I can, but it is a little hard to find everything in a second. I think, if your Honor please, that it might perhaps be better, as counsel indicated that he would read any part asked for, if the section of the President's report to which the Committee's report referred was included in this quotation in order that the
1573 jury may understand what we are talking about.

Mr. Warrum: The Court can rule on that, but we will introduce the entire report, but we don't want counsel to tell us what parts to read, or what portions to read.

The Court: I think counsel can introduce any parts they desire, as you have done.

Mr. Warrum: Now, we will read from Exhibit 29 E, the report of the miners convention for 1908, from the report of Vice President Lewis, found on pages 57 and 58 of the report, and indicated by pencil marks on the exhibit. (Reading.) "West Virginia has over fifty thousand mine workers. A small section of the Tunnelton field and the Kanawha valley are the only places where the members of our craft are allowed to organize. On the West Virginia Central railroad, guards are employed to see that organizers are not allowed to get in communication with the mine workers. This is also true of the Fairmont, New River and Norfolk and Western districts. In some instances organizers are threatened with assault if they remain in those districts. This

is also the condition in some parts of Kentucky, Tennessee, Alabama and notably true of southern Colorado.

There must be some mistaken conception existing as to the real object of our union, to prompt mine owners to violate the law, disregard all rules of civilized society when they hire thugs to assault the organizers, in order to prevent the mine workers from organizing. I am of the opinion that we must learn the real cause for this bitter antagonism and then try to remove it by winning the confidence of those operators and convince them that they have been la-
1574 boring under a wrong impression in regard to the mission of the United Mine Workers.

When threats and force are not effective in intimidating the organizer, the injunction is brought into use to complete the work of preventing the mine workers from organizing. The judiciary is made the medium through which the American laboring men are deprived of their legal rights. As citizens of this country, we have a right as miners to demand and insist on having justice.

Mine Disasters.

The terrible mine disasters that have occurred in this country recently have shocked the nation. The sacrifice of hundreds of lives has called vividly to the minds of the American people the dangerous occupation of the mine workers. Many are the suggestions being advanced by so-called experts and others as to the best method of protecting the lives of those working in the mines.

Remedial legislation in the form of more stringent laws is the basis of practically all the suggestions that have been offered.

Laws to increase the inspection force, to compel the daily inspection of mines by practical and competent miners, to provide sufficient ventilation to divide the air current in a mine, to sprinkle dust [ofetn] enough to make the dust harmless, to compel the use of safety lamps in mines generating fire damp, are all wise precautions when enacted into laws and rigidly enforced.

With the enactment of all those provisions it will not prevent the danger in the mine or lessen the possibility of those terrible calamities unless the thousands of impractic-
1575 al miners employed to work in the mines are taught to understand the dangers that surround them.

The United Mine Workers of America, in addition to being a labor union, organized to raise the standard of wages and protect our members in their rights as wage earners and citizens, is also an educational institution. The United Mine Workers is the only medium that a mine worker has to compel [resepct] of the mining laws on the part of the operator. It is a well-known fact that where the miners are best organized, the existing mining laws are the most strictly observed.

With no organization the individual miner who complains that the mining laws are not enforced is discharged? The miner may know that he is in constant danger of death on account of the neglect of the mine owner, yet the same miner runs the risk of his life rather than lose his job. The miner is prevented from organizing by the intimidation of the operators. He is prevented from organizing by the injunction of a federal judge. He can not insist on the enforcement of the mining laws because he has no union to protect him. In the event of an explosion in a mine, under those conditions, I would ask in all seriousness, who is responsible for the loss of the miners' lives? This is a question that requires the serious consideration of every miner and every citizen of this country.

It has been my privilege to assist in the formation of the United Mine Workers. I have seen our union grow from practically nothing to an organized force of more than three hundred thousand mine workers. I have seen the United Mine Workers weather many an [industricl] storm, and if we are but true to ourselves and the principles of the organization, there will be no doubt of the future and permanent success of the United Mine Workers."

1576 Mr. Warrum: From the same volume, being from the proceedings of the reconvened convention, and the report of the Scale Committee, on pages 51 and 52, as indicated by the marks.

Mr. Neal (reading): "Secretary Wilson read the following preamble of the report of the Scale Committee and Conference Committee:

"Modern civilization and industrial development receives its greatest impetus from the production of coal. It is the general basis of manufacturing, transportation and artificial heat. Any condition that seriously disturbs the coal industry affects the entire community. No man, or set of men, co-partnership or corporation, can afford to create a

condition, for light and transient reasons, that will stop the production of coal and paralyze the [indsutries] of our country. Such a course can only be defended upon the grounds that some great wrong is being perpetrated or some fundamental principle of human right invaded, for which a general stoppage of work is the only remedy.

"Recognizing these truths, we have tried to adjust the differences existing between us and our employers by other means than strikes. Our present wage scale contracts generally expire on March 31, 1908. On October 29, 1907, at our invitation, we met the representatives of the operators of the central competitive coal field, composed of western Pennsylvania, Ohio, Indiana and Illinois, for the purpose of trying to agree upon a date for holding an Interstate Joint Convention to consider and, if possible, adopt a scale of
1577 wages and conditions of employment for the [for the] ensuing wage scale period. On three different occasions since then we have met them for the same purpose. In all of these conferences the operators, with the exception of Indiana, have refused to agree to a date for such a conference either before or after the present scale expires on March 31. In addition to this we have telegraphed them naming a specific date, March 24, as a date for the conference, and that invitation, with the same exception, they have all declined. Under these circumstances we must either find some other means of settling our differencees or stop work when our present contracts expire.

"In Missouri, Kansas, Arkansas, Oklahoma and Texas, comprising what is known as the southwestern fields, we have contracts with the coal operators by which we have agreed to meet them in joint conference to arrange a wage scale before the present one expires. A similar condition exists in central Pennsylvania, West Virginia, western Kentucky, Michigan, Iowa and Colorado. One of the prime reasons for the success which our organization has attained is that while we have contended for the best conditions possible to secure in making a scale, when once it has been agreed to we have held it to be inviolable. We must not break these contracts now. For the foregoing reasons we recommend that the following policy be adopted:

"Delegate Smith, District 19—I move that the preamble be adopted as read. (Seconded and carried.)"

Mr. Warrum: I next offer from Exhibit 29h-2, being the proceedings of the United Mine Workers of America's an-

nual convention of 1910, from the annual report of President Lewis; found beginning on page 66, 67 and 68.

(Reading): "Our Right To Organize.

1578 "It has been stated and repeated many times that labor unions are here to stay. Let us put ourselves on record in the most positive manner, that so long as one employer insists on the right to combine with other employers to develop industry, accumulate wealth and buy labor at the cheapest possible rate, just that long will the mine worker insist on the right to organize with his fellow mine worker to dictate the terms upon which we will sell our labor.

"Let me hear repeat and emphasize what I said several years ago. We live in an age of concerted effort. Action in every walk of life emanates from the combined energies of the many interested along certain lines. The individual to be successful cannot stand alone. He must co-operate with his fellow man or stand aside and be pronounced a failure.

"We are brought more and more fully to realize the tremendous power of co-operation and the dependency of individuals upon each other in every walk of life. Religious, educational and financial institutions have a new life, sprung into existence from united effort in their various fields of work and all having a bearing on the bed rock of human progress—Labor.

"Notwithstanding the tremendous impulse given to every movement through unity of purpose, there are some men among employers of labor and controllers of finance, who would deny that unity of action among laboring people that they, themselves, exercise in their every day affairs.

"They cry down organized effort among the laboring people under the false alarm of encroachment on "Individual Liberty." They arrogate to themselves to organize capital under the sacred name of "Vested Rights." The time is at hand to bring forcibly to the attention of this class of
1579 people that in an era of concerted effort, such as we have, there is no such thing as individual liberty among working people if we are denied the right to co-operate with each other to better our condition and secure a brighter future.

"Capital has rights under the law, so has labor. Capital has a right to be invested through human agencies, either in dollars singly or in combination with millions of other

dollars. So must the wage earner have a right to act singly or in conjunction with all his fellow laborers. This is not sentiment, but the statement of a condition that must be recognized. Capital and Labor should co-operate and work together; but if there must be a struggle between dollars and men, then men should and must be triumphant.

"Why We Organize

"The status of the labor union must be explained, not from a charitable or sympathetic standpoint. It must be made clear that we have our existence legally and morally as a matter of absolute right, not only to organize, but the right to accomplish the purpose for which we are united.

"Few men today, even among the rankest enemies of labor unions, seriously question our right to organize, but there is a further right, i. e. the right to make the organization effective, or else its existence is a farce.

"We, as mine workers, are organized for a specific purpose. Among the objects for which we are organized is to secure fair wages, better conditions of employment, shorter hours of labor, proper ventilation in the mines and an opportunity to educate ourselves and those depending upon us.

"We mean by fair wages, that every man employed in a mine should receive a minimum of $3.00 per day for
1580 his labor. Better conditions of employment, means the use of every device that human energy and skill can place in the mine to improve the surroundings of those who delve in the bowels of the earth. Shorter hours of labor, for the reason that we can produce with an eight-hour work day all the coal needed to meet the requirements of the nation annually in less than 225 days of each year. Proper ventilation, means a sufficient volume of air passing through the mines to protect the health of the mine workers and reduce to a minimum the danger encountered in mines generating fire damp. To educate ourselves, in order that we can become more intelligent and better fitted for the duties of citizenship.

"Any attempt to enforce these demands, even along the most conservative lines in certain states, causes disagreements that sometimes result in strikes. When we are compelled to strike, we are accused of interfering with the rights of the employer, when in fact we are simply defending our own rights. In many instances when we attempt to defend our own rights, we are denounced as un-American.

"Certain employers of labor who make vicious onslaughts upon labor unions would have us to believe that they have some source of strength and security outside of government regulation. When we present our claims to certain employers, we are told that we must respect individual liberty, or the right of every man to do whatsoever he pleases with his own, when he is acting within the limits of the law.

"They seem to forget that rights, duties and obligations are mutual and that the right of individual liberty is a right in name only. There is no such thing as individual liberty in a civilized government. [They] government itself is only a compact of individuals who become a part of it and
1581 who agree to do and not to do certain things specified by law. Every man who has become a part of the government has made a concession.

"Let those who attack labor unions remember that the fundamental rule of a just government is that corporations and individuals can exercise, unrestricted, their vested rights in property, only to the extent that it will not injure the rights of others.

"As members of labor unions, all we ask is equal opportunities before the law, and this we have a right to insist upon. This we will insist upon with all the power and intelligence at our command. Let those corporations that are attempting to destroy labor unions remember that when driven too far, the mighty hosts of labor, by organized effort and the intelligent use of the franchise, can destroy the power of the corporation and make it harmless as a factor to enslave the wealth producer."

Mr. Warrum: And also on pages 71 and 72, of the same report, by the same president to the same convention.

(Reading): "In West Virginia and other southern coal-producing states a firm conviction exists in the minds of many of the operators that it is our purpose to organize the miners of those states in order that the operators will be prevented from shipping coal West, and to that extent give the miners of the central competitive field more employment. I am not criticising those operators for their attitude, for the reason that men in our own ranks are responsible for the position of the operators.

"It is unfortunate, but true, that we have officers and members of the United Mine Workers who have and are criticising the International officers for not organizing the
1582 miners of West Virginia. In Ohio the miners have been told that West Virginia should be organized in

order that the Ohio miners could get more work. Men who make use of such statements have no [conveption] of the real object of the United Mine Workers or they are self-confessed demagogues, in either event, they do the members of the organization a very great injury and have caused the United Mine Workers a needless expenditure of hundreds of thousands of dollars.

"Each and every mining district of the country has a market for its product that should be exclusively its own. In every instance such a market is limited. It is well known that it is impossible for the larger coal-producing states to market their production within their own states. There is a general market for coal that no one mining district can hope to control. West Virginia cannot market its coal production within the state. It must ship a part of its product East, Northwest or South. We should emphasize that the Southern states are entitled to an equal opportunity with every other mining district for their share of the general market either East, Northwest or South. We should declare in the most emphatic manner that it is not our purpose to organize the non-union mining districts to curtail their coal production. We must convince the operators of those states that we are sincere in our position. We will then have removed the greatest obstacle in the way of organizing West Virginia and other states named.

"The strike as a method of organizing has not proven a success. The enormous expenditure of funds and the tremendous waste of energy incident to industrial strife should be avoided. Our right to strike can never be sur-
1583 rendered, but it should be the very last resort and every other means exhausted before a suspension of work is ordered or takes place.

"A large number of the miners are anxious and ready to organize, but lack of confidence in our ability to succeed cause them to be indifferent. Many of the operators are really not opposed to the organization, but are skeptical of our object and fear the result.

"Let us appeal to the intelligence of the operator and miner in the non-union mining districts. Perfect frankness in stating our position and sincerity in carrying into effect our declarations will do much to establish that confidence necessary to success. The application of common sense should be the basis of the new method of promoting industrial peace in the mining regions."

Mr. Warrum: Now, from the annual convention proceedings for 1911, the same being Exhibit 29j, from President Lewis' annual report, pages 52 and 53.

Mr. Neal (reading): "Unorganized Mining Districts.

"The all important problem confronting the United Mine Workers of America is, how can we organize the mine workers in the non-union districts and complete the work in those districts which are but partly organized? Costly and unsuccessful efforts have been made to organize the non-union districts through the medium of strikes.

"The tremendous expenditure of the funds of the organization and the failure to organize the States south of the Ohio river as well as Colorado, Maryland and a large section of Pennsylvania, should prompt us to investigate the
cause of the hostile attitude and the bitterness shown
1584 toward the organization by many of the operators in the States named.

"I have called attention in former reports to the fact that in West Virginia and other southern coal producing States, there is a firm conviction in the minds of a number of the operators that it is our purpose to organize the miners of those States in order to shut them out of the markets into which operators of organized districts ship coal. This is an unfortunate condition but is partly due to the action of a few of our own members in misrepresenting the facts and deceiving our members.

"During the past year I assigned International Vice-President Hayes and Board Members Farrington, Watkins and Garner to visit the Norfolk and western district and the Fairmount region of West Virginia to investigate and report the prospects of organizing that State. The reports submitted to me verified what I have known for years—that in certain non-union districts, an organizer jeopardized his own life the instant he undertook to organize the miners.

"My experience in West Virginia and other non-union States prompts me to believe that we should clearly define our position with reference to those States. We should declare in the most emphatic manner that it is not our purpose to organize the non-union mining districts to curtail their coal production. We should emphsize our position that every non-union mining district of the country is entitled to an equal opportunity with every other mining district to market the product of their mines.

"Let us clearly define our position as organized mine workers. Let us then appeal to the intelligence of the operator and the miner in the non-union districts. If we desire to establish that confidence necessary to our success we should be perfectly frank in stating our position and we must be absolutely sincere in carrying into effect our declarations.

"I have stated in former conventions, and I repeat again, that the application of common sense should be the basis of a new method of extending our organization into the non-union mining districts and to establish permanent industrial peace between the mine owners and the mine workers of the country."

Mr. Warrum: From the same exhibit, Resolution No. 110, and the part of the proceeding showing the adoption thereof, found on page 606 and 607.

Mr. Neal (reading): "Resolutions No. 110. "Whereas, The United Mine Workers of America is organized for the purpose of enrolling in one organization every mine worker on the American continent; and,

"Whereas, The object of the United Mine Workers of America is to secure a fair standard of wages, a shorter work day and improved conditions of employment for its members who are employed in and around the mines and,

"Whereas, The United Mine Workers of America believe in the principle of conciliation as the basis upon which differences between employer and employe can be adjusted, and believe that by free, open and intelligent discussion of any proposition is the best means of an inteligent and final determination of the merits of any question at issue; and,

"Whereas, The United Mine Workers of America has declared that the wage agreements should be based upon the principles of the earning power of men and the competitive relation of the mine owner within a State, between States or between countries that are producers of coal;

"Whereas, There is a mistaken impression existing in the minds of many mine owners in Canada and the United States in regard to the attitude of the United Mine Workers toward the mine owners; and,

"Whereas, We are firm believers in the principles that certain markets naturally belong to certain mining districts and that nothing should be done that would deprive the

mine owners of any district, State or province of their natural markets;

"Resolved, That we, the representatives of the Canadian members of the United Mine Workers, declare in the most emphatic manner in favor of an International Union of mine workers and pledge our earnest and hearty co-operation to organize every mine worker on the American continent

"Resolved, That we give our unqualified pledge and endorsement to the joint movement method of arranging wage contracts on such a basis as will not deprive the mine owners of Canada or the United States of their natural markets.

"We are respectfully on behalf of the Canadian delegation,

"DAN McDOUGALL,
President District 26.
"A. J. CARTER,
District 18.
"JOHN MANSELL,
District 26.
"W. B. POWELL,
District 18.
"WM. WATKINS,
District 26.
Committee.

1587 "The committee recommended concurrence in the resolution.

"A motion was made and seconded that the report of the committee be adopted."

Mr. Warrum: From the same exhibit, pages 74 and 75, and part of 76, as indicated, being from the annual report of Vice-President Hayes, to the annual convention of 1911.

Mr. Neal (reading): "The Irwin Field Strike.

"As one of a committee of five members of the International Executive Board I visited the Irwin strike district in Pennsylvania on May 19, and addressed meetings of strikers at Greensburg and Latrobe. Our visit to this field was necessarily brief on account of the International Executive Board being then in session at Indianapolis, having adjourned temporarily in order to send this committee to make a hurried investigation of the strike.

"Upon our return to the Board meeting we explained the situation as we found it, along with a compilation of data

secured from reliable men in the field. After a careful review of the situation the Board voted an endorsement of the strike. I shall not burden you with a detailed history of the causes of this strike; suffice it to say that there had been no organization in this field for many years that the men were absolutely at the mercy of their employers; that they had no check-weighman on the tipple, and consequently suffered a large reduction in their reputed mining rate on account of shortage in weight; that the hours of labor were unlimited;
that practically no dead scale work existed; that
1588 prices for narrow work were ridiculously low, and
other grievances too numerous to mention.

"In view of these conditions is it any wonder the Irwin field miners refused to longer enslave themselves and [and] families? Is it any wonder they came out on strike with a firm determination to fight to the last for the establishment of the union and the inauguration of a new era based on justice and fair play?

"And how bravely they have battled, these heroic strikers of the Irwin field! Through ten long, weary months they have carried the standard of unionism aloft, resolutely, unflinchlingly—and even to the graves of sixteen of their comrades, both men and women, brutally and wantonly murdered by hired thugs and deputies, by moral perverts and ex-convicts, the paid assassins of the law-protected, privileged few—through it all they have marched manfully and coureageously with their eyes on the goal of industrial freedom, and their hearts responsive to the new born inspiration of a better manhood, a nobler womanhood and a happier childhood for all their people.

"Such qualities of unionism as exhibited by our striking brothers in the Irwin field challenges the admiration and commands the support of every man worthy of the name. There are, however, I regret to say, certain individuals, and especially two subsidized papers, one brazenly styling itself a labor paper, published at Pittsburg, Pa., that have done their full share in discrediting the strike of the Irwin field miners. Their lying, venomous attacks are timed to the jingle of the silver of a Judas, and their dastardly, traitorous work ought to be evident to every intelligent member
or our organization. But despite the work of these
1589 professional character assassins, with their servile
sycophancy and desire to destroy the effectiveness of this strike, they have so far met with little or no success, and the men, with few exceptions, are standing firm and loy-

al to the cause, determined, with our support, to establish the United Mine Workers throughout the Irwin field."

"Unorganized Mining Fields.

"After the settlement of the Illinois strike I was assigned to West Virginia for the purpose of investigating conditions, hours of labor, wages paid, sentiment for or against the organization, etc.

"I found that conditions in the sections visited were deplorable to say the least. For instance, the hours of labor were unlimited, ten hours being the minimum, and nobody knowing the maximum, the method of paying for mining was varied, some miners paid by the day, some by the car and some on long ton basis at ridiculously low figures. The wages paid day laborers averaged about $1.50 per day. Company stores were in evidence in all places visited. The men must trade at these stores or lose their jobs. They are also compelled to contribute so much each pay for company physician as well as company hospital. They are paid once a month. The great majority of these non-union miners live in dilapidated shacks of two or three rooms, owned by the companies. Guards are also employed to keep these people in subjection."

Mr. Warrum: From Exhibit 29m, in the proceedings of The United Mine Workers of America, in their annual convention of 1912, and reading from the report of President John P. White, to that convention, found on page 55
1590 of the exhibit as indicated by pencil. (Reading):

"Unorganized Fields.

"The plant most feasible for bringing about the organization of the unorganized fields of the country is a problem that should receive our most thoughtful consideration.

"From my observations a strong sentiment for organization exists in the Irwin-Connellsville field, southern Colorado, Alabama, Hopkins county, Kentucky; Tennessee, West Virginia and elsewhere. I have been impressed with the fact that had we not been hampered by the internal controversies and the condition of our finances, successful campaigns could have [neen] waged in some of these districts and the organization established.

"An examination of the affairs of our organization discloses the fact that we have been so occupied with internal matters in the strong organized districts that proper attention has not been given to the important unorganized terri-

tories, while it can be argued that vast sums of money have been expended in certain unorganized fields. A casual survey of the defeats the United Mine Workers have suffered in many of these districts [revelas] that they are not due altogether to the failure of the men to respond, but the cause is a political one, as in nearly every instance political influence militated against the success of the workers and the dominant political parties were indifferent to the rights and welfare of our people. If we would succeed in establishing the organization in some of these districts and also protect it in other fields, it might be well for us to consider this phase of the situation."

And from the same exhibit, and reading from the report of Vice President Frank J. Hayes, on pages 75 and
1591 76 as marked. (Reading):

"Unorganized Mining Fields.

"The problem of establishing the organization on a firm basis in the non-union mining fields is one that must always command our best thought and attention. The old saying that a chain is no stronger than its weakest link applies forcibly to our movement, and our future progress is largely dependent on our success in thoroughly unionizing the coal industry. We find in the states of Virginia, West Virginia, Maryland, Kentucky, Tennessee and Alabama approximately 150,000 mine workers, the vast majority of whom are unorganized and utterly helpless in meeting the encroachments of organized wealth. It is interesting to note that a considerable number of operators in these unorganized states seem to be laboring under the delusion that the establishment of the organization in their respective fields means the ruination of their properties and the enforced idleness of their mines, that it is a conspiracy engineered by northern miners to retard the legitimate growth of their trade, and probably, until we are successful in our efforts to organize these fields, or until they become more enlightened, they will continue to pay out vast sums of money each year to guards, detectives, and unscrupulous politicians for protection from this imaginary evil. In dealing with this proposition we have made it clear to both sides that it is not our intention to unionize these fields for the purpose of strangling competition with the operators in the northern states, nor to establish prohibitive wages and conditions, viewed from a competitive standpoint, that will

keep their product out of its most favorable market.
1592 It is needless to say that if we adopted such a short sighted policy it would act as a boomerang and would hit our cause and the men we organize harder than it would the operators, inasmuch as it would greatly limit the output of these fields, deprive the men of work and cause them more hardship than they now suffer. Such, of course, is not our intention, all reports and wild statements to the contrary notwithstanding, and in the making of any wage scale these economic facts must and will be taken into consideration. Every mining district in the country has a natural market and an inherent right to the same, and we are well aware of the peculiar, geographical location of those particular fields, and in dealing with this complex problem we fully realize that we are face to face with a condition and not a theory, and we must meet it with reason and intelligence, and with the sincere desire to be constructive and not destructive, to build up and not to tear down, until, at least, in the evolution of things, now being hastened by intelligence, world wide discontent, universal co-operation shall supplant the present system of competition, with all its waste, brutality and utter disregard for the higher and nobler phases of our common life.

1593 Mr. Warrum: That concludes from the annual convention and proceedings and from the joint conference report of the operators and miners of the Central Competitive Field held at Indianapolis, January 28th to February 3rd; February 29th to March 5th and March 21st 1904. On page 4 from the report of the Committee on Rules, from the Volume marked Exhibit 30 B.

Mr. Neal (reading); "Rules.

First. That the convention meet daily at 9 a. m. and 2 p. m., and adjourn at 12 m. and 5 p. m.

Second. Special meetings may be held, or evening sessions, if so desired.

Third. The miners' representatives shall occupy the right of the hall, and the operators, the left, facing the stage.

Fourth. That each State be allowed the same number of votes on the floor of house—four votes on behalf of the operators and four votes on behalf of the miners in each state.

Fifth. That no vote be declared carried unless upon the affirmative vote of the miners and operators of each state. That upon all questions of mere precedure the ordinary rules of

parliamentary procedure, as stated in any standard manual, shall be the rules of this convention; and that in no event shall the rule requiring unanimous vote on all main and principal questions be suspended. Main and principal questions mean all questions affecting the proposed scale and agreement.

Sixth. That each state represented in the convention have four operators and four miners on the scale committee
1594 to be appointed with the understanding that each state may have an alternative for each representative, who shall have all the privileges of the scale committee, but shall have no vote except in the absence of his principal.

Seventh. That sessions of the joint convention be open to the public except when otherwise ordered.

Eighth. That the use of tobacco be prohibited in the hall during the convention."

Mr. Warrum: Now, your Honor, some of this may seem questionable in its relevancy, but it is not only for the record but for the jury to know the condition and circumstances under which these discussions took place, and so that the jury might visualize the situation as it took place.

Now, from the report of the Credentials Committee from page 5 of the same volume.

Mr. Neal (reading):

"Report of Credentials Committee.

Your committee on Credentials begs leave to report the following entitled to seats and voice in this convention:

Operators		Miners.	
25	Pennsylvania	105	
80	Ohio	128	
(Bit.) 57	Indiana	105	(bit.)
(Block) 10	Indiana	14	(Block)
181	Illinois	205	
353	Total	557.	

On motion the report of the committee was adopted."

Mr. Warrum: On page 7 of this exhibit, the operators proposed scale and the miners proposed scale.

1595 Mr. Neal (reading): "Operators Proposed Scale. Presented by Mr. Robbins.

Resolved, That the conditions of the times warrant and require a reduction of 15 per cent from the present scale for

the scale year beginning, April 1, 1904, and ending April 1, 1905.

Miners Proposed Scale.

First. We demand an absolute run-of-mine basis for the entire competitive field.

Second. That there be a flat differential of 7 cents per ton between pick and machine mining.

Third. That the pick price per ton in the Pittsburg District, Hocking Valley, Ohio; Indiana, and the Grape Creek Vein of the Danville District of Illinois, shall remain the equivalent of the scale of April 1st, 1903, to April 1st, 1904.

Fourth. Amend last year's contract by striking out in Inside Day Wage Scale the words, "Company men in long wall mines of Third Vein District, Northern Illinois, $2.36," and inserting the words, "Brushers in long wall mines $2.56."

Fifth. All internal differences shall be referred to the districts affected for adjustment.

Sixth. That there be a uniform scale for Outside Day Labor in the competitive field."

The Court: We will now take an adjournment until tomorrow morning at 9:30.

1596 Ft. Smith, Arkansas, Tuesday, October 30, 1917.

Pursuant to adjournment as last aforesaid came the parties as before on Tuesday, October 30th, 1917, and the trial of the case proceeded as follows:

Mr. Warrum: If the court please, we will next read in evidence from the Exhibit last referred to, being Exhibit No. 30b, being the volume containing the proceedings of the joint conference called of the Miners and Operators for the central competitive field, 1904. From the remarks and argument of President John Mitchell on page 8.

Mr. Warrum (reading): "Mr. Mitchell: Mr. Chairman and Gentlemen of the Convention: As a preface to the discussion of the specific matters submitted to the convention, I desire to take this occasion to speak briefly of the very cordial relationship that has existed between our respective organizations during the past several years. I desire also to express the earnest hope that that present relationship may be continued. I recall, a very few years ago, when we sought to adjust our relations by remaining apart, when we sought to establish peace by engaging in war. I remember, too, that when wages

had been forced down so low that the miners were rather regarded as objects of charity, that the coal operators at that period were about to go into bankruptcy. I think the arrangement we have had during the past six or seven years, the contracts we have made and the wages we have received, have been to the mutual advantage of operators and miners alike. I think that the operators will agree with me when I say that they do not profit by paying low wages. I am free to confess that it is to me a strange philosophy that a re-
1597 duction of wages will relieve an industrial depression. I cannot understand how less wages will relieve over-production. To my mind the only way to relieve over-production is by making it possible for people to consume; and the working man cannot purchase unless he has wages. A reduction in the price of mining means a reduction all around. If you reduce one industry it goes on, and on, and on, and finally the wages of all workers are reduced, for the purchasing power is cut off; and then you come back and start over and over again; it is an endless repetition. It means that when wages go down the consuming power of the purchaser is curtailed, and all the citizens of our country are compelled to suffer, whether they be workers or capitalists."

"Mr. Robbins has spoken of reduction in the Meyersdale Field of Pennsylvania, and of proposed reductions in the Fairmount region of West Virginia. I cannot agree that coal is being mined in the Meyersdale field for 55 cents a ton. It is true that the operators there are making a rate of 55 cents a ton but it is just as true that the miners are resisting, and they are right. Every year that we have met in these conventions we have heard the statement made that the reason the operators represented here could not comply with the scale of wages proposed with the miners was the fact that they were meeting an unfair competition from the Fairmount District of West Virginia. And now it is said that the Fairmount operators propose a reduction of 25 cents a ton. Why that is more than the operators told us they got altogether. Why do the operators of the Fairmount District propose to reduce the rate of mining 25 cents a ton. Why, even, do they talk about
1598 it? Is it because of competition from Pittsburg, Ohio, Indiana or Illinois? Against whom do they sell their coal? In competition with whom is their coal sold? Not with Meyersdale. I see that over a million tons of West Virginia coal, a considerable part from the Fairmount Field, went to Chicago last year. Certainly if trade conditions are such that reductions must be made, it is not because they believe that they have no advantage over their competitors in the Pittsburg District or other parts of this competitive field."

Mr. Warrum: From page 9 of the same volume, Exhibit 30b, beginning with the words, "We know that outside of the state of Ohio." (Reading):

"We know that outside of the state of Ohio and the Pittsburg District of Pennsylvania, practically all the coal mined in the United States is weighed and paid for upon a run-of-mine basis; and we expect to continue to demand a run-of-mine basis until we get it. We expect to keep everlasting at it until we succeed. We favor run-of-mine because we believe it to be the only honest method of weighing and paying for the product of the miners' labor. We don't believe that it injures you. We don't believe it causes any one to suffer. And what cannot give you any unfair advantage, and what will not injure us, and that will not injure the public, is certainly a thing that we can with justice insist upon securing."

1599 Mr. Grant: From page 10, beginning with the words, "Now, gentlemen, I want to speak to you of one reason".

Mr. Warrum (reading): "Now, gentlemen, I want to speak to you of one reason why we ask for a modification of the scale, and why we cannot agree with you that there should be a general reduction in the rate of mining. In times of industrial stagnation or depression the men who work for wages are compelled to suffer what amounts to a reduction of their earnings by reason of the fact that they are not permitted to work so steadily. Short time is equal to reduced wages, and as a consequence the earning power and the purchasing power of a miner's wages is curtailed by the depression in the industry, even if he accepts no actual decrease in the amount he receives per day or per ton. If we accept a reduction in wages it doesn't mean that any more coal will be burned. What person is there that will buy one ton of coal more if he receives it for 10 cents a ton less? I say not one ton of coal more will be burned if coal sells for 10 cents a ton less. I am free to confess that 50 cents or a dollar a ton reduction might enable some person who cannot buy coal at the present rates to buy a small amount then. If we accept a reduction in wages, then it means that our purchasing power is reduced that much more. The cost of living during the past six or seven years has increased in proportion to the increase in our wages, and, inasmuch as it is not within your power, even if you had the inclination, to offer us a reduction in the cost of our living, we cannot see our way clear to accept the proposition which you make. We are not living too well now. We are living better

than ever before, but we are not going to return to the
1600 conditions that prevailed some years ago. The time will never come again, with our consent, at least, when the coal miners of this country will have to ask for charity when they are able to work, when they are willing to work, and when they are at work. We want these relations continued. We want you to be prosperous. We want to enjoy a reasonable degree of prosperity ourselves. We are free to say, we are glad to admit, that the conditions of our lives and our labor were never better; but we also propose to say and to insist that they are not too good yet. We ask you, gentlemen, not to insist upon a reduction in wages where it can do you no good, and can do us incalculable injury. We ask you not to insist upon a part of our earnings in order to turn it over to the railroad companies. Let us go on as we are, making such modifications in our internal arrangements as seem necessary. Let us try and restore the good times, if we can."

1601 Mr. Grant: The next extract is from page 27.

Mr. Warrum: This is a colloquy between President Mitchell and Mr. Chapman, Mr. Mitchell a miner and Mr. Chapman an operator, beginning "Permit me to say".

(Reading): "Mr. Mitchell: Permit me to say that we have West Virginia here as far as our representation is concerned. If you will bring your friends, the operators, from West Virginia, they will find 105 West Virginia miners here to meet them.

"Mr. Chapman: I would say that the bringing of every miner in West Virginia or every operator in West Virginia into the city of Indianapolis does not affect the proposition of your raising your scale of wages there to make the cost of coal in that competitive field equal to what you are paying in the others. Whenever you do that and enforce your scale in West Virginia the operators of Pennsylvania and Ohio are ready to meet you."

1602 Mr. Grant: The next extract is from page 21.

Mr. Warrum: May I ask, if the court please, if the statements by Mr. Grant are going into the record?

The Court: I assume so.

Stenographer Perkins: Yes, sir.

Mr. Warrum: Statement of Mr. Wilson, beginning with the words "We are told" and ending with the words "ground between them."

Mr. Drinker: Is that Mr. W. B. Wilson?

Mr. Warrum: Yes, sir, he was then secretary-treasurer of the miners' organization. (Reading):

"We are told that the competition from West Virginia is so great that Ohio operators are not able to sell their coal in competition with it; that the Pittsburg, Indiana, and Illinois operators are affected by the competition from West Virginia coal; and in order to meet that competition we are asked to accept a reduction in the central competitive coal field. Mr. Robbins has already told us that West Virginia operators are asking their miners to accept a reduction in order to meet a reduction from central competitive coal field. Where does the miner come in in a proposition of that kind? He is between the upper and the nether mill stone, and is being ground between them."

Mr. Grant: The next is a statement of President Mitchell, pages 49 and 50, beginning "Mr. Mitchell; I believe the discussion of this matter", etc., and ending with the words "are not going to consent to a reduced mine rate."

Mr. Warrum (reading): "Mr. Mitchell: I believe the discussion of this matter should be carried on with per-
1603 fect frankness and candor on both sides. I don't think we should disguise our position at all; and I want to state for our side of the house just where we are, as I understand it. We don't believe that a reduction in the mining rate will help you. We know that it will do us incalculable injury. We don't believe that a reduction in the mining rate will secure for you a larger amount of trade than you now have. We don't believe that the industry will be benefited by reducing wages. We know that in the past every reduction in wages has been given to the large consumers of coal—not to the domestic trade, not to those who can ill afford to pay high rates for coal, but to the railroad companies and the great manufacturers. We know that when the mining rate is lowest your profits have been least.

Now, gentlemen, it has required many many years of work and effort and sacrifice to make wages at the mines compare favorably with wages in other industries. We are not going back to the old conditions; we are not going to consent to a reduction in wages. We believe the best thing to do is to renew our present wage scale; to make such modifications of internal questions as seem right, and then return and work out the coming scale year as we have the past scale year. I think

we may as well understand now as at any other time that we are not going to consent to a reduced mining rate."

1604 Mr. Grant: The next is a statement of Mr. Dolan on page 77.

Mr. Warrum: Mr. Dolan (a miner), beginning with the words "Our friend Chapman". (Reading):

"Our friend, Mr. Chapman, says if we are good citizens we will accept this reduction because we cannot control some fellows in West Virginia and Kentucky. Why don't Mr. Chapman and his associates who have more influence than we have try to control some of the operators who are making the bad citizens in this country? The coal operators can make presidents, senators and congressmen, they can make [any] anything they want only control those fellows that cut the price in the markets. They can do this if they want to. I have nothing more to say, only to make this point. I have said all I can previous to this time. Low wages, low prices for coal have never done any good for the operators and they haven't done any good for the miners and they haven't done any good for the business people of America. It has never made good citizens; on the contrary it has made bad ones, and we don't see any reason why we should be reduced."

1605 Mr. Grant: The next is the action of the scale committee,—action on scale contract, page 114 of the same volume.

Mr. Warrum: The joint convention. This is the proceedings of the last day, beginning on page 114 with the words "The joint convention was called to order", etc., and on down to the words on page 115, "now stands adjourned sine die." (Reading):

"The Joint Convention was called to order at 4 p. m., Mr. Kolsem in the chair.

"Mr. Kolsem: Are you ready to vote upon the report of the Joint Scale Committee?

"Mr. Mitchell: We are ready.

"Mr. Kilsem: It has been moved and seconded that the report of the Scale Committee be adopted. That is the motion before the convention.

"Secretary Wilson called the roll of states.

"The Illinois operators voted in the affirmative.

"Mr. Bogle: The Indiana Block operators vote "Aye" on all except the clauses pertaining to mine-run and screened coal in the state of Indiana. That matter they consider an internal question, and reserve the right to take it up in their state convention.

"The operators of Ohio and Pennsylvania voted in the affirmative.

"All the miners voted in the negative.

"Mr. Kolsem: The motion is lost. What is the pleasure of the convention?

"Mr. Robbins: I move that this Joint Convention adjourn [sire] die.

1606 "Mr. Mitchell: I second the motion.

"Secretary Wilson began the roll call.

"Mr. Mitchell: Mr. Chairman, we would like to have the roll call deferred for a few minutes. We would like to have the sub-scale Committee come forward for a short conference.

"(After an absence of ten minutes the Sub-scale Committee returned but made no report.)

"The Secretary proceeded with the roll call. All the operators voted in the affirmative, all the miners voted in the affirmative.

"Mr. Kolsem: The motion is carried. This convention now stands adjourned sine die."

1607 Mr. Warrum: We will now introduce in evidence the title page of the volume marked 30c, the interstate convention of 1906. (Reading:

"Interstate Conventions 1906

Joint Conferences
Coal Miners and Operators
Of
Western Pensylvania,
Ohio, Indiana And
Illinois

Indianapolis, Indiana
January 25th to February 2d, and March 20th
to 29th, 1906

1608 Mr. Grant: The next is on page 10, remarks of Vice-President Lewis.

Mr. Warrum: Before reading that we will introduce the report of the committee on credentials, on page 4.

(Reading): "Mr. T. L. Lewis: Simply as a matter of personal privilege I wish to speak. The gentleman last upon the floor desired to emphasize the fact that I said the same scale existed in the other districts seeking admission. I want to repeat that statement; it is correct. The place the gentleman has reference to is Texas, which is in District 21. At the last conference in Pittsburg, Kansas, the differential that was recognized by the operators' and miners' representatives, between the day wage scale in Texas and that in Arkansas, Indian Territory and Kansas, was reduced one-half of what it had previously been. I think it is fair to this convention in discussing these matters that we discuss them in the broadest, most liberal and comprehensive manner possible, and I want to say that in Kansas, Arkansas, Indian Territory and Missouri, the same day wage scale exists as in the Central Competitive Field. If we are to take as the basis of our argument in presenting these matters, the very rare exceptions to the general rule, then it may be said that there may be some places, even in Illinois, where the Central Competitive day wage scale does not exist because of a contest now on."

"Mr. F. S. Brooks, of Ohio, presented the following report for the Committee on credentials:

"Operators.		Miners.
" 30	Pennsylvania	113
" 85	Ohio	156
1608-a " 50	Indiana (Bituminous)	111
" 8	Indiana (Block)	13
"184	Illinois	240
357	Total	633

"Total number of delegates in the convention, 990."

Mr. Grant: On the same page the rules.

Mr. Warrum: We will introduce and consider as read in evidence the rules adopted, they being the same as before.

(Said Offer of Rules is in words and figures following):

"Rules.

"First. That the convention meet daily at 9 a. m. and 2 p. m. and adjourn at 12 m. and 5 p. m.

"Second. Special meetings may be held or evening session, if so desired.

"Third. The miners' representatives shall occupy the right of the hall and the operators' the left, facing the stage.

"Fourth. That each state will be allowed the same number of votes on the floor of the house—four votes on behalf of the operators and four votes on behalf of the miners in each state.

"Fifth. That no vote be declared carried unless upon the affirmative vote of the miners and operators of each state. That upon all questions of mere procedure the ordinary rules of parliamentary procedure, as stated in any standard manual, shall be the rules of this convention; and that in no event shall the rule requiring unanimous vote on all main and principal questions be suspended. Main and principal questions mean all questions affecting the proposed scale and agreement.

1609 "Sixth. That each state represented in the convention have four operators and four miners on the Scale Committee, to be appointed with the understanding that each state may have an alternative for each representative, who shall have all the privileges of the Scale Committee, but shall have no vote except in the absence of his principal.

"Seventh. That sessions of the Joint Convention be open to the public except when otherwise ordered.

"Eighth. That the use of tobacco be prohibited in the hall during the convention."

Mr. Grant: The next is on page 10, remarks of Vice President Lewis.

Mr. Warrum: Beginning with the remarks of Vice President Lewis, "Simply as a matter of personal privilege".

(Above offer will be found on page where first offered.)

Mr. Grant: The next extract is from the argument of President Mitchell on page 23, beginning "As long as I have any recollection."

Mr. Warrum (reading): "As long as I have any recollection I have heard that old story, 'If you men will take a lower wage rate we will give you steadier work.' I dont think there is a miner in America that at some time has not been approached, either individually or in company with his fellows, with the alluring promise, 'If you will take lower wages you will get steadier work.' A few years ago the miners were foolishly taken in by such a promise. We dont want steady work. We know that steady work is impossible. We know that if coal was mined for absolutely nothing, if all our people were independent gentlemen who only mined coal for exercise, there would not be a pound more burned, not a ton more consumed; there would not be a day's
1610 more work for us than if we were all paid $1 a ton, unless some of you people or some of our people want to make bonfires of it.

"We agree with you that we should have our share of the work and that you should have your proper share of the tonnage and trade. Let us see if you are not getting it. I am not aware that the districts doing business with us have not retained their trade. It may be true that in some districts, such as the Hocking Valley, of Ohio, where the coal vein is rapidly exhausting, where the best veins of coal have long ago been exhausted, that tonnage is being diverted to other parts of Ohio and even to other states, but principally, I believe, to other districts of Ohio where there have been recent developments and where big and profitable veins of coal have been discovered. But the tonnage of the state of Ohio has not been increased. Indeed, it has continued its slow but steady development. It has not kept pace with West Virginia, and it is not expected [than] an old state will increase its product in the same proportion as a state where great veins of coal have been recently discovered and developed. West Vrginia is in the course of development. Railroads are being built all through it; great and easily accessible veins of coal are being found and it is only natural that there [shoule] be immense development there. But even West Virginia has done very little better than the old state of Illinois, where they have the advantage of a 7-cent differential and where the wage rate, the tonnage price and the conditions of employment are as favorable to the miners as they are in any state in the Union. The failure of Ohio
1611 to increase its tonnage in the same proportion as West Virginia may not be due to a lower mining rate there any more than the increase in Illinois can be attributed to a higher mining rate in that state."

Mr. Grant: The extract is from the argument of Mr. Haskins, a miner, on page 102, beginning with the words, "Mr. Haskins; Mr. Chapman talks about the reduction".

Mr. Warrum (reading): "Mr. Chapman talks about a reduction. Nobody knows better than Mr. Chapman what a reduction means in the coal industry. It means demoralization in the coal industry, and nobody knows better than he that the Ohio operators and the Ohio miners cannot possibly live under such conditions as he suggested here today. That very same gentleman in 1894, when we were working under a contract in Ohio which was to expire May 1, made the same statement then and the miners agreed to accept a 20-cent reduction, consented to have their wages reduced from 70 cents to 50 cents, included to do so by the same silvery voice you have heard here today. The result of that, my friends, every operator and miner in Ohio knows only too well. Accepting that reduction was one of the worst things the miners of Ohio ever did, for the gentlemen on the other side know very well we did not get as much work after accepting the reduction as we got before. If we had not gone through this experience we migh be in a position where they could deceive us, but they cannot do so now.

"At different places in Ohio it is no wonder the West Virginia coal is being sold, when the very gentlemen who complain so bitterly of the competition from West Virginia are responsible primarily for the introduction of the
1612 West Virginia coal into the Ohio markets when they were trying to compel the Ohio miners to accept reductions in their wages. No one is more interested, I believe, than the Ohio miners in doing what they can to contribute to the permanency and success of this interstate movement. I am sure it is not our desire to return to the conditions which prevailed in 1894, 1895, 1896 and 1897. I am sure of another thing, and that is that the miners are not going to be responsible for a condition of that kind. It does seem to me, however, that the argument made by the gentlemen from Ohio, favoring a reduction of wages, together with the other proposition he submitted, is for just one purpose. It seems to me his aim to at least suggest or propose something that will have the effect of disrupting this movement."

1613 Mr. Grant: The next extract is from the argument of President Mitchell on page 144.

Mr. Warrum: I should state this was the second conference of the same year, the other failing to arrive at any agreement.

Mr. Drinker: It is in the same book, is it?

Mr. Warrum: Yes, in the same volume.

(reading): "Mr. Mitchell: This convention has convened under what are possible the most extraordinary circumstances that have ever prevailed in the industrial history of our country. When we adjourned more than six weeks ago it seemed to us, as it did to the entire people of our country, that a great industrial conflict was imminent. So far as I know, each of these forces made preparation for a great industrial strife. Fortunately, or unfortunately, as circumstances may develop, the President of our country intervened and advised that we make further effort to reconcile our differences. As a consequence of his intervention—for which I believe the entire country feels grateful—we have met here today to again consider, not only our own personal and collective interests, but also the interests and welfare of this our common country. I have given to this situation as much thought, as much consideration, I presume, as anyone here. I have reviewed in my own mind the causes which led to a separation six weeks ago, and I have tried as best I could to review this situation not so much as a miner, but rather as an official and a man charged with certain public responsibilities. And, gentlemen, after six weeks of thought and consideration, I am convinced beyond per-
1614 adventure of doubt that the claims we made in this hall six weeks ago were founded upon facts and justice, and that the industrial prosperity of our country justifies the coal miners in asking that they shall receive at least a fair share of the profits that result from great industrial activity. I believe that the claims we made then have been confirmed by conditions since our adjournment. It may be that because of our surroundings, because of our environment, because of our training and our special interest we are unable to view this situation impartially; but, as stated in our resolution adopted some days ago, we are willing to meet with you who represent the ownership, or who are the owners of these mines, for the purpose of trying earnestly and conscientiously to adjust our differences. I take it for granted that the experience of the past eight years have satisfied even the most skeptical among you that annual or biennial agreements between you and us are much better for our mutual interests than the old method that pre-

vailed years ago, when every year saw a strike or a lockout, a serious conflict as to our different rights. I believe, gentlemen, that first we owe it to ourselves, that next we owe it to our country, to make the best effort that is within us to reach an agreement that will preserve and maintain industrial peace in the coal fields of this country. In order that there may be some concrete proposition before the convention for discussion, I desire to offer, on behalf of the miners, the scale of wages and conditions of employment proposed to us at our recent joint conference.

'We demand:

First: A general advance of 12½ per cent over the
1615 present scale.

Second: To be paid on a run-of-mine basis, with a proper relative run-of-mine price for all the states covered by the contract.

Third: That the differential between pick and machine mining be 7 cents per ton.

Fourth: That a uniform outside day wage scale be established.

Fifth: That all yardage and deadwork be advanced 12½ per cent.

Sixth: That no boy under sixteen years of age be employed in or around the mines.

Seventh: That our contract become effective April 1, 1906, and expire March 31, 1907.

Eighth: That eight hours' work from bank to bank shall constitute a day's work.

Ninth: That when the men go into the mine in the morning they shall be entitled to two hours' pay whether or not the mine works the full two hours; that the men shall be paid for every hour thereafter by the hours for each hour or fractional part thereof. If, for any reason, the regular routine work cannot be furnished the inside labor for a portion of the first two hours, the operators may furnish other than regular labor for the unexpired time.

Tenth: That the check-off for the collection dues, initiation fees, fines and assessments levied by the United Mine Workers of America become a part of the Interstate Joint Agreement.

Eleventh: That internal differences in any of the states or districts, both as to prices and conditions, shall
1616 be referred to the states or districts affected for adjustment."

Mr. Warrum: And we introduce in evidence the demand made at the original meeting. I will not read it; it is the same as the demand just read.

1617 Mr. Grant: The next is an extract from argument of Mr. J. H. Walker, an Illinois Miner, on page 165.

Mr. Warrum (reading): "There is another phase of the question, but I hardly like to discuss it here. Every time the operators of Illinois have been able, in a certain field, to force an advantage under certain conditions, when we attempted to have these things rectified, we have been met with every argument that could be produced on competition from West Virginia, the Pittsburg District —and I think they went in British Columbia and Canada to get places where coal was being produced cheaper than in that district. They have dodged the issue in every instance, and up to this time have maintained the advantage they gained at one time, because of certain conditions that existed, the main one being that the miners of that district were not organized strongly enough to come into the Joint Convention and have a scale made on a competitive basis. The operator got the advantage and he has retained it. Some operators in that state did not care to enter the movement, and we made rates that placed them at a disadvantage. Since that time we have made rates that were right. You are responsible for our not being able to deal with these matters in an open and frank manner."

1618 Mr. Grant: The next extract is from argument of Vice President Lewis on page 200.

Mr. Warrum (reading): "The other day Mr. Cantwell asked Mr. Penna why he had not organized them when he was president of the United Mine Workers. Mr. Penna very properly answered because he was not able to organize them. We might add to that the reason the United Mine Workers have not organized them up to this time is because we cannot. Our failure is due to the opposition of the operators in the Irwin District, and some of those operators are represented in this convention. Now, if we want to be placed on a proper basis, let us all join hands and make those mines union mines, and I think the United Mine

Workers can go into the Irwin Field and lick the other fellows in very short order."

Mr. Grant: The next extract is on page 272, showing the adjournment with no agreement.

Mr. Warrum: Beginning with the words, "Mr. Winter; It seems to me we have reached the limit of discussion," etc.

(Reading): "Mr. Winder: It seems to me we have reached the limit of discussion upon the question of a wage scale for the ensuing year. If I felt that anything further could be accomplished by holding this convention longer I should be glad to have that done; but I can see no possible hope of accomplishing anything at this time. Therefore I move that this convention adjourn sine die. (Seconded by Colonel Randolph Smith, of Illinois.)

"(Secretary Wilson called the roll of states. The operators of the four states voted in the affirmative; the miners of the four states voted in the affirmative.)

"Mr. Traer: The motion prevails. The convention is adjourned sine die."

1619 Mr. Warrum: I will introduce first the title page of this volume marked Exhibit 30 D.

(Said title page being in words and figures as follows:)

"Inter-State Convention

of 1908
Joint Conference
of
Coal Miners and Operators
of
Western Pennsylvania, Ohio
and Indiana
Held at
Toledo, Ohio
April 14-17, 1908.

Stenographic Report by Ella Shera Green,
Indianapolis, Ind.

Revised and Edited by F. S. Brooks, Secretary."

Mr. Grant: The next is on page 14.

Mr. Warrum (reading):

"Ohio.

Operators	83	Miners	128

Pennsylvania.

Operators	35	Miners	105

Indiana.

Bituminous	15	Miners Bituminous	31
Operators Block	2	Block	3

Illinois.

Operators	0	Miners	15
Total operators	135	Total miners,	282

G. W. SAVAGE, Chairman,
F. S. BROOKS, Secretary."

1620 Mr. Grant: The next is on page 16, the rules.

Mr. Warrum (reading): "Mr. Savage: I move that the rules of the former joint convention be the rules of this convention as reported by the committee.

(Seconded, voted on and carried.)"

Mr. Grant: The next the interstate agreement, on page 119, 20 and 21 of the same book.

Mr. Warrum (reading):

"Inter-State Agreement of 1908-10.

It is hereby agreed between the Operators' and Miners' representatives of Western Pennsylvania, Ohio and Indiana;

First: That the mining rates, day wage scale and general prices in existence in Western Pennsylvania, Ohio and Indiana in the year 1907 be reaffirmed:

Second: That internal differences both as to prices and conditions be referred for adjustment to the various districts affected:

Third: That the screen hereby adopted for the State of Ohio, Western Pennsylvania and the bituminous district of Indiana shall be uniform in size, six feet wide by twelve feet long, built of flat or akron-shaped bars of not less than five eights of an inch surface, with one and one-fourth inches between bars, free from obstructions, and that such screen shall rest upon a sufficient number of bearings to hold the bars in proper position;

Fourth: That the Brick Coal District of Indiana may continue the use of the diamond screen of present size and pattern, with the privilege of run-of-mine coal, the mining prices of which shall be determined by the actual screenings;

1621 Fifth: That the eight-hour day of forty-eight hours of six days per week is hereby reaffirmed;

Sixth; That an eight-hour day means eight hours' work in the mine at usual working places for all classes of inside day labor. This shall be exclusive of the time required in reaching such working places in the morning and departing from same at night.

Regarding drivers, they shall take their mules to and from the stables, and the time required in so doing shall not include any part of the days' labor, their work beginning when they reach the change at which they receive empty cars, but in no case shall the driver's time be docked while he is waiting for such cars at the point named;

Seventh: That when the men go into the mine in the morning they shall be entitled to two hours' pay whether or not the mine works the full two hours. But after the first two hours the men shall be paid for every hour thereafter by the hour, for each hour's work or fractional part thereof. If for any reason the regular routine work cannot be furnished the inside labor for a portion of the first two hours, the operators may furnish other than the regular labor for the unexpired time;

Eighth: That the term of this contract shall begin April 1st, 1908, and expire March 31st, 1910;

Ninth: That a general resumption of operations in Western Pennsylvania and Ohio (the mines in Indiana now being in operation) shall take place on Monday, April 20th, 1908:

Tenth: That the renewal of the mining rates, day wage scale and general prices existing in 1907 is on condi-
1622 tion of the approval of a two years' contract by referendum vote of the United Mine Workers of America:

Resolved, by representatives of the Interstate Joint Convention, composed of the operators and miners of Western Pennsylvania, Ohio and Indiana, that we condemn in the most vigorous and positive manner the practice of suspending the operation of mines, pending the investigation and ad-

justment of disputes arising under the terms of joint agreements in the various districts and sub-districts under the jurisdiction of this Interstate Movement; and we recommend that such provisions be agreed upon by the operators' and miners' Representatives in the various districts and sub-districts as will require the mine managers and mine workers to comply with the terms of the contract, and to adjust disputes without delay and without suspending the operation of mines.

This Intertsate Joint Convention shall adjourn to meet in Interstate Convention on the first Tuesday in February, 1910, at 10 a. m. in the City of Toledo, Ohio.

Signed at Toledo, Ohio, April 17, 1908.

On behalf of Operators:

On behalf of Miners.

Pennsylvania.

Geo. W. Schluederberg
John H. Jones,

Francis Feehan
S. A. Whetzel

Ohio

H. L. Chapman
F. M. Osborne

Wm. Green
G. W. Savage.

Indiana

(Bituminous District.)

Indiana Bituminous Coal Operators Association,
By P. H. Penna
Jno. K. Siefert.

W. D. Van Horn
D. N. Curry

Indiana

(Block Coal District.)

J. H. McClelland
W. J. Snyder,

Patrick Golden
John Fogg.

T. L. LEWIS,
President U. M. W. of A.

I. B. Serbe, Chairman.
F. S. Brooks)
W. D. Ryan,) Secretaries."

Mr. Grant: The next is Exhibit 30 G.

Mr. Warrum: Reading from the proceedings of the Interstate Joint [Confernence], 1914.

Mr. Grant: Page 7, starting with the rules and order of business.

Mr. Warrum: It will not be read, as it is the same as heretofore read.

The Court: We will consider it in.

(Which said offer is in words and figures as follows:)

"Rules and Order of Business.

Rules.

First. That the conference meet daily at 10 o'clock a. m. and 2 p. m. and adjourn at 12 m and 4 p. m.

Second. Special meetings may be held, or evening sessions if so desired.

Third. The miners' representatives shall occupy the right of the hall and the operators the left, facing the stage.

1624 Fourth. That each state be allowed the same number of votes on the floor of the house—four votes on behalf of the operators and four votes on behalf of the miners in each state.

Fifth. That no vote be declared carried unless upon the affirmative vote of the miners and operators of each state. That upon all questions of mere procedure the ordinary rules of parliamentary procedure, as stated in any standard manual, shall be the rules of this conference, and that in no event shall the rule requiring unanimous vote on all main and principal questions be suspended. Main and principal questions mean all questions affecting the proposed scale and agreement."

Mr. Grant: The next the presentation by President White of the miners demands, on page 17 of the same volume.

Mr. Warrum (reading): "Miners' Demands.

First. That all coal be weighed before being screened and paid for on a mine run basis.

Second. That we demand a flat five cents per ton increase at the basing points.

Third. A ten per cent increase on all dead work, yardage and day labor.

Fourth. A uniform day and wage scale for all classes of outside and inside day labor.

Fifth. A proper readjustment of the machine differential at the basing point.

Sixth. That we demand a complete check-off for the miners' organization through the companies' office.

Seventh. That we demand that all local inequalities and internal differences be referred to the various districts
1625 affected for settlement.

Eighth. We demand that where the price or regulation of powder is made a contract provision that union-made powder shall be furnished.

Ninth. That the miners work only one-half day on Saturday.

Tenth. That the company shall pay drivers for time from taking charge of stock until they, the company, receive same.

Eleventh. We demand that our contract shall be in effect for two years.

Mr. White: If there is a disposition on the part of the operators to adjourn we will not burden you with an argument now in detail on these demands. If you insist upon adjourning, as far as I am personally concerned, I have no objections."

Mr. Grant: The next is the argument by Mr. White, on pages 20 and 21.

Mr. Warrum (reading):

"Mr. White: Mr. chairman and gentlemen of the conference—I am indeed much disappointed in the evasive manner in which the proposition, which I supposed you were heartily in favor of, has been jammed together with a subject matter that involves the demands of the miners, or the propositions that may be involved; in other words, the question of a wage scale. I thought it was generally understood, that there was no question of doubt in the minds of anybody, that what we were seeking to obviate was idleness in the mines of this country after the first of April, I think the records of our joint conferences will show that the miners have been
1626 roundly censured and criticised for not having business acumen enough to join hands with the gentlemen on the other side who were solicitous of preventing the very condition we have now before us.

It has taken some time and some educational work among the miners' organization was necessary to inculcate a proper knowledge of the real necessity of their doing their share to ameliorate the conditions complained of. When we agreed in Cleveland to do something toward this end the question that was left in that conference—and the records will show—was that we were to have something in the way of a report to submit to the miners' convention. The whole theme of the operators was that the miners would be against it. Everybody readily understood and entered upon that deliberate plan with the operators, fully converted and sincerely anxious to obviate a suspension. The work mapped out for the representatives of the miners was to convert their hundreds of thousands of members to the principle. We have done a good deal of work and we are able to come in here and say: "Gentlemen, we have agreed to abolish the useless suspension." That was all that was declared in the principle, so that we might declare to the public we had reached a point where we are willing to discard a system that no longer is of any benefit to us and that works a hardship on them.

The proposition I submitted yesterday along with our demands was simply a recommendation of the president to the miners' convention; it was fully discussed in our meeting, and the delegates were in sympathy with the declaration and voted to advise our people to work pending the adjustment
1627 of their district wage scales. No one for a minute, as I understood, doubted the ability of this conference, with the time it has at its command, to sound all the depths and shoals of the issues that may rest between the miners' demands and the operators' proposition. We have nearly seven weeks in which to negotiate a basic scale. You changed the place of meeting; you said you wanted us to come to Atlantic City, and then you said you wanted us to come to Philadelphia. We finally acquiesced in the proposition to come to Philadelphia where we would be away from the influences you complained of. We said we were going to stay with you this time, and yet when we come in here and present our proposition—the very thing you gentlemen have pleaded for—we find it is looked upon in a rather peculiar light.

It is to be regretted that the gentlemen on the other side regard this lightly. And in making answer to us your crowd in a large amount of subject matter that if the miners were to agree to would make this wage scale conference a useless body. By it you would pledge us, long before we could advance any reasons why we were entitled to what we were contending for, to submit without restriction any question at issue."

Mr. Grant: The argument by President White on page 51, of the same book.

Mr. Warrum (reading): "Mr. White: I think our friends are really very much exercised over something that does not exist. Their statement that we brought this proposition in here for the purpose of placing the coal industry wholly at
the mercy of our organization is absolutely without
1628 [goundation]. We have no desire to break off negotiations. In fact, we had been led to believe because of your insistence in years gone by on this principle that it would strengthen the position of negotiation. Mr. Maurer might as well disabuse his mind of the thought that we brought this in here for the purpose of putting the operators in an unfavorable light before the public for breaking off negotiations.

I am ready to stay here, day and night and as long hours as possible for us to endure, to bring about a settlement or exhaust all efforts to bring it about. That would not lead anyone to believe we want to place the operators in an unfavorable light by breaking off negotiations. We thought when you insisted on this procedure that you had in mind a just grievance against a system that had outlived its usefulness. We agreed with you and concurred in the sentiment you had advocated for years, and [crystalized] it into a concrete proposition. We do not want to have any more of these suspensions if we can help it. That is all it amounts to. What Mr. Maurer and others may say about what we are contemplating is foreign entirely to our purpose."

Mr. Grant: The next is the operators demands, page 70 and 71.

Mr. Warrum (reading): "First: In entering into an agreement, the rights of the employers and of the owners of property must be recognized, and these rights can only be modified or abridged by the specific terms of such agreements stipulated.

Second. That the machine differential in Illinois and
1629 Indiana must be adjusted on a basis that will be more favorable to the operators of those states.

Third. We demand that if any contract entered into the so-called check-off or collection of dues or assessments as the Miners' Union have heretofore levied or assessed and collected by the check-off system through the operators be discontinued.

Fourth. The establishment of a court of last resort to which disputes which threaten the suspension of properties shall be

taken, and by that means avoid the altogether too prevalent and notorious practice by the United Mine Workers Local and State bodies of enforcing settlements on their own terms in violation of the provisions of the engagements.

Fifth. Provide penalties in form of stipulated fines for violation of contracts by both parties when properties are closed in violation of the agreement.

Sixth. For the protection of life and property the operators' right to employ such supervising officers as they may deem necessary shall not be questioned and that they shall not be dominated by the United Mine Workers in any respect."

Mr. Grant: Then, the next is the adjournment that comes on page 260.

Mr. Warrum (reading):

"Chairman Schmick: Gentlemen, the conference will come to order. When we recessed this morning, the question before the house was on Mr. White's motion to adopt the miners' proposition submitted on last Friday morning. Are you ready for the question?

1630 (The question was called for.)

Chairman Schmick: The question has been called for. The Secretary will call the roll.

(A vote was then taken on the motion and the operators of the four states voted against the motion, and the miners of Western Pennsylvania, Indiana and Illinois voted for the motion, the miners of Ohio voting against the motion, and it was declared lost.)

Chairman Schmick: The motion not having received a unanimous affirmative vote, is lost. What is the pleasure of the conference, gentlemen?

Mr. Germer: Mr. Chairman, it seems that we have exhausted all possible means of reaching an agreement, so I move that this conference adjourn sine die.

(The motion was duly seconded.)

Chairman Schmick: It has been moved and seconded that the conference adjourn sine die. Are you ready for the question, gentlemen? The secretary will call the roll.

(On roll call the operators and miners unanimousy voted for the motion.)

Chairman Schmick: Gentemen, the motion having received an affirmative vote, the joint interstate conference stands adjourned sine die.

(Whereupon, the joint conference adjourned sine die.)"

Mr. Grant: The next is Exhibit 30 E, joint conference proceedings of 1910.

Mr. Warrum: I will first offer the title page:

"Proceedings
of
Joint Conference of

1631 Coal Operators and Coal Miners of Western Pennsylvania, Ohio and Indiana.

Cincinnati, Ohio.

March 8-29, 1910."

Mr. Grant: The next is beginning with the argument of Mr. Lewis, on page 24, going on to pages 25 and 26.

Mr. Warrum (reading): "I want to emphasize another thing, that is in regard to the increase in the West Virginia production being larger in proportion then it is in Ohio, Do you know why? I wonder if the Hocking District in Ohio will be able to increase its production very many years. Anybody who knows anything about the Hocking coal fields understands that that district is circumscribed by the amount of coal that is in the hills down there. Anybody knows, so far as the Hocking district is concerned, that there is coal in that district as a domestic proposition that nothing but anthracite can take its place. You will not increase the Hocking production because the mines are being worked out and [abdndoned]. What is true of the Hocking District is true of the Jackson District, where our good old friend Mr. Chapman comes from. I think he understands the history of this movement about as well as any of us. There can be no increased [prodction] from the Jackson field because it is not there to be increased. I wonder if our friends from Eastern Ohio wouud tell the convention that the No. 8 seam as not increased in production so far as that district is concerned, in the same proportion as West Virginia. When we met in Chicago there were very few mines in Eastern
Ohio represented there, but Eastern Ohio is now the
1632 largest producing section in the state. Why? Because of West Virginia's competition? Not at all. It is possible it might be a larger producer if we had no

West Virginia competition, because the people of this country are going to get coal somwhere as long as there is coal produced, and they are going to buy it at the place they can get is cheapest. It is not a question with us of seeing how cheap we can work, and it is not a question with you of giving your coal away. Later on there are some things in regard to competition we will bring home to you. We will show that some operators in Ohio, when they did not do so, went to work and gave the price away to consumers of steam coal when they did not have to do it.

If I have a proper conception of this movement it meant the uplifting of the industry. If I have a proper conception of this movement it does not mean that either operators or miners can publicly say, "We will organize West Virginia in order that thte miners of Ohio or Indiania can get more work." That has done more to prevent the organization of West Virginia than anything I know of. Coupled with that is the attitude of Ohio and Western Pennsylvania, probably of Indiana, and I know of some Illinois operators who have gone to West Virginia and have built human fences around their properties. I mean by that that they surround their properties with pickets, men who, even when the organizers of the United Mine Workers want to walk along a county or township road passing through the properties, is met at the property line and compelled to state what his business is before he can walk on the public
1633 highway. Men will say that is not possible in a free country, but I say it is possible. It is possible in some mining districts in this country, and I belive they are in the United States, because they are in West Virginia, Kentucky, Tennessee, Alabama and a few places in Pennsylvania.

Why do we demand mine-run? Why do the operators resist the demand? We demand mine-run as the basis upon which men shall be paid for their labor, because we believe in establishing the uniformity that is talked so much about. We want mine-run becaunse we believe it is the only equitable way of paying the men for mining coal. We believe it is the surest way to place every operator of this country on a uniform basis. There was a time when there was some merit possibly in the claim of the operators in developing some of the veins of coal when they told us "We are unwilling to concede mine-run because there is no market for slack. We have got to haul it out and dump it on the dirt dump or you have got to store it away in the gob. We don't want it." But under modern methods of consuming fuel that

argument has been removed. Why, we were formally told to throw the fine coal back in the gob because they did not even want to pay the cost of hauling it out, and penalties were imposed if we did not do it. The reverse is true today, and the miners are penalized if they do not load all the slack out in order that it may be marketed.

Over in West Virginia in all non-union sections they mine coal on the mine-run system and pay on the mine-run system. Some of the operators say, "Yes, they pay by the car, and they have no tonnage price." In some places
1634 that is true, absolutely true, but that does not change the fact that the [mineO-run] standard exists. There is is another thing in connection with this mine run proposition. Ie would be interesting for the American public to know how much coal from the screened coal mines is sold as mine run notwithstanding the fact that is is mined and paid for on the screened coal basis. It is hardly necessary to go into a discussion of that, because everybody who understands the mining situation knows that the steam trade of this country is a mine-run proposition. Go wherever you will in Ohio and see the engine coaled at the mines, and you will discover that where the coal is run over the screen and the nut and slack coal run through it is all put back into the bins and put on the engine tender. Of course the operators will tell us—and I do not want to make their arguments either, by the way — that they are paying the equivalent of mine-run when they are paying on a screened coal basis at the present price. We are willing to admit that it was sought to fix the equivalents on that basis, but in order that there will be no argument about the equivalent we are ready to wipe out the screened coal basis, wipe out your equivalents, and go on the run of mine basis in order that there may be no argument about that.

We are asking for an advance of 10 cents a ton for pick mining, and an equivalent advance for machine mining, and a corresponding increase for all day work, dead work, yardage, etc. Why are we asking for that? We are asking for that in order that we can live as respectable citizens ought to live. That is why. We are asking for that because, notwithstanding the statements made about the advances
1635 we received since 1898, since 1900 our wages have been advanced only 12-½ per cent — possibly they have been advanced 20 per cent—[butthe] cost of living has been advanced over 60 per cent. I know the argument may be used that, taking approximately 125 or 130 articles

the increased cost of living will not average anything like that.

That we are willing to admit; but the average miner in this country never earns enough to enable him to purchase the 125 or 130 articles.

The most essential things to us are the food we eat, the clothes we wear and a few other things that are necessary to bring some happiness into our homes. Entering into our cost of living is the rent. Taking those items into consideration the average cost of living has been advanced from 50 to 60 per cent to the American mine worker, and that is one of the strong reasons why we should have an advance in our wages.

There is another reason and we all recognize the force of it. If the operators of this country are not willing to get together to get living profits on their investments the mine workers of this country are not responsible, and we are not going to be parties to a condition that keeps us down to a point where we cannot meet our honest obligations and pay our debts out of the wages we receive for our labor. We want to say, and we say it kindly but positively to the gentlemen on the other side of the house, "Get together and organize, not only in Ohio and West Virginia—and I know a lot of you have influence enough over there, if you do as much work as we do, to organize them."

Mr. Grant: Now, turn back to page 10 of the same
1636 exhibit, the credential committee's report.

Mr. Warrum (reading): "Mr. Savage: As ex-officio members. We find the approximate numbers of delegates as follows: Western Pennsylvania, operators 25, miners 140; Ohio, operators 48, miners 140; Indiana Bituminous, operators 25, miners 90; Indiana Block, operators 2, miners 10.

On motion the report of the committee was adopted."

Report of Committee on Rules and Order of Business and Permanent Organization.

Mr. Dagger, secretary of the committee, reported as follows:

Your Committee on Rules and Order of Business and Permanent Organization met, and adopted the following which we submit for your consideration:

That the Rules and Order of Business that governed the joint convention of the Central Competitive Field in 1908 be adopted as the rules of this convention.

Rules.

First. That the convention meet daily at 9 a. m. and 2 p. m. and adjourn at 12 m. and 5 p. m.

Second. Special meetings may be held or evening session, if so desired.

Third: The miners representatives shall occupy the right of the hall and the operators the left, facing the stage.

Fourth: That each state be allowed the same numbers of votes on the floor of the house—four votes on behalf of the operators and four votes on behalf of the miners in each state.

1637 Fifth: That no vote be declared carried unless upon the affirmative vote of the miners and operators of each state. That upon all questions of mere procedure the ordinary rules of [parlimonetary] procedure, as stated in any standard manual, shall be the rules of this convention; and that in no event shall the rule requiring unanimous vote on all main and principal questions be suspended. Main and principal questions mean all questions affecting the proposed scale and agreement.

Sixth: That each state represented in the convention have four operators and four miners on the Scale Committee, to be appointed with the understanding that each state may have an alternative for each representative, who shall have all the privileges of the Scale Committee, but shall have no vote except in the absence of his principal.

Seventh: That sessions of the Joint Convention be open to the public except when otherwise ordered.

Eighth: That the use of tobacco be prohibited in the hall during the convention."

Mr. Grant: The next is on page 15, of the same book, of miners demands.

Mr. Warrum (reading):

"Miners Proposition.

We, the representatives of the United Mine Workers, present to the Operators for their consideration the following proposition:

1. That all coal be weighed before being screened and paid for on that basis. The mine-run rate in the different districts shall be at least equivalent to the screen coal prices.

1638 2. An advance of ten (10) cents per ton for pick mining and an equivalent advance for machine mining and a corresponding increase for all day work, dead work, yardage, etc.

3. That we demand a uniform rate of wages for all classes of inside and outside day labor. Time and a half for overtime, Sundays and legal holidays.

4. A change in the present eight hour day work day so as to provide for eight hours from starting time until quitting time, or what is commonly known as from "bank to bank" with a half holiday on Saturday.

5. That the contract period shall be for two years from April 1, 1910.

6. That all local inequalities and [intental] differences, both as to prices and conditions, be referred to the districts affected.

7. That the International officials require all coal companies in the Pittsburg District, where new explosive have been introduced, to comply with all the terms of settlement made with the Charleroi Coal Company and the officials of our organization on the explosive question, by either paying the miners on run-of-mine basis, or granting an increase of 5-1/2 per cent to miners working in wide rooms and 9 per cent in narrow rooms, and that the miners be furnished the new explosives at the same relative cost as black powder, which was formerly used, and where shot-firers are employed the company shall pay their wages, and that the International officers give the matter immediate attention.

8. There shall be no limit to the amount of deduc-
1639 tion for the organization.

9. That no district under the control of the United Mine Workers be permitted to enter into an agreement to reimburse the operators for any money expended for labor, directly or indirectly, wherein the law says the expense shall be borne by the operators."

Mr. Grant: Page 42, of the same book, the argument by Mr. Feehan.

Mr. Warrum (reading): "We are unwilling that the nonunion operators and miners of West Virginia or of any other coal field shall set the standard of prices and the standard of living for the intelligent operators and miners engaged in the mining industry in the states that are represented here. I believe that is the honest opinion of all of the operators who are present. It is unnecessary for me to refer to the fact that many of the operators who are represented here in this joint conference have interests in West Virginia and in other nonunion coal fields whose products are going into the markets they are complaining of. It is true that they have contributed, with the other operators who are engaged in the industry in those states and districts, to keep the organization from obtaining a hold or becoming a factor in the industry in those fields of which they complain. If they will withdraw their objections to the establishment of the organization in those field, I am sure they would not be confronted with those conditions, and we would be able to remove the evil in a very brief time. The practices resorted to by the nonunion operators of West Virginia are un-American. If our organization were
1640 to adopt the anarchistic methods of the nonunion operators, there would be a howl from the American public and we would be branded as an organization of Molly Maguires. We are not going to do that. It has not been our practice in the past, and we are not going to resort to the methods and practices the operators have been guilty of in those nonunion fields to prevent organization among the mine workers."

Mr. Grant: The next is page 70 of the same book by President White of the Mine Workers.

Mr. Warrum (reading): "I have a few figures over here at this end of the table and we will deal with them at the proper time. We intend to show you that the miners of West Virginia are not working full time, as many men here are lead to believe. There may come a time during our deliberations when we will learn from discussion, from rubbing together of our ideas, that the operators in the central competitive field not only compete against each other and lower the selling price of coal, but in their desire to secure some other trade they have compelled in some instances the operators of West Virginia to reduce the selling price in order to control the trade they had."

Mr. Grant: The next is on pages 78 and 79, the same exhibit, remarks of Mr. Feehan.

Mr. Warrum (reading): "I said yesterday that the mine workers of Western Pennsylvania, Ohio and Indiana who were represented here, were not going to permit either the miners or the operators of West Virginia to set a scale of wages for them or a standard of living. We are unwilling to accept their prices or conditions, although I have reason to believe there is not so much material difference as
1641 some of you would try to make it appear. I am unwilling, however, that they should be referred to, or that their conditions of labor or prices should govern the working conditions or the prices of the mine workers of the districts here represented.

There is one point I want to bring out that has not been made clear, and that is the disadvantage the operators of Eastern Ohio are put to in competing for the markets against the operators who have interests in West Virginia, and that is the character of the veins. In West Virginia it is not uncommon thing to have them develop from six to ten feet of clean coal. There is no slate to remove; it is easily mined; it is a good grade of coal; it can find a market; and when you take into consideration the cost of producing a ton of that coal compared with the little five-foot vein of coal in Eastern Ohio with its many impurities and its thick slate, and the Pittsburg District, with its weak roof, where in many cases it is difficult to operate a machine, as well as many other natural disadvantages the operators have, herein lies the cause of the competition more than in the cost of labor.

The cost of labor is not the important factor that is crowding the Eastern Ohio operators out of the market on the lakes or elsewhere. It is the natural disadvantages that is doing it. There is one advantage the operators in Eastern Ohio have, and that is their geographical situation. They are nearer the lake markets and other markets, and I believe they have an advantage of from 15 to 25 cents a ton in freight rates. I understand that when the decision of the Interstate Commerce Commission goes into effect
1642 they will have even greater advantages in freight rates. It is fortunate for them that they have these advantages. Were it not for their adantages in the matter of freight rates I am positive that many of the veins of coal now being worked in Ohio and elsewhere would be abandoned, and they would wait until the big veins with the greater natural advantages in West Virginia were worked out before they would again operate there. These factors have not been seriously enough considered heretofore.

The conditions in West Virginia are not as bad for the mine workers as they have been pictured. As a result of not having any representatives on either the miners' or the operators' side they have been grossly misrepresented. In the Pittsburg District at the present time there is a scarcity of labor; operators are advertising for men, and while that is true the miners will not leave West Virginia to come to the Pittsburg District, but they are leaving the Pittsburg District and going into West Virginia, and not many of them return. They find conditions there as good at least as they are in the other districts, and I do not believe we should be so harsh in our criticism of the operators or the mine workers of West Virginia. I do not believe the operators who are a part of this conference, and who also have large financial interests in the mining operations of West Virginia would resort to all of the Molly Maguire practices that are put into effect to beat organizers who are representing the United Mine Workers, or that they would do other things that are un-American and inhuman as well. Surely that cannot be true. I believe we should get away from West
1643 Virginia. Either leave them to take care of their own affairs in their own joint conference, or admit them as a part of this joint conference. If the operators are willing to do that I believe the miners will acquiesce. Then we will have the representatives of the operators and miners of that state to deny the misrepresentations that have been going on here since the conference convened."

Mr. Grant: The same exhibit, page 105, remarks of President Lewis.

Mr. Warrum: (reading): "Mr. Lewis: I would like to make a correction. Mr. Maurer stated that what I said was a reflection on every operator in this convention. No such statement was made. I made it very clear, or at least I thought I did, that the operators who are here should endeavor to eliminate the competition among themselves before attempting to lay such great stress upon the competition from West Virginia. I never said anything in my statement that reflected on the intelligence, on the integrity or on the ability of the operators here, and the records taken at the stenographer will show that I did. We have never intimated that there was not a great deal of capital invested in the mining industry. I rise to make that correction because the statement of Mr. Maurer is not a fair one. I recognize the intelligence of the operators and the miners—and I am one of the miners."

Mr. Grant: On page 113, the same exhibit, statement of Mr. Savage:

Mr. Warrum (reading): "—if you operators from Ohio and Pennsylvania will lend us the same assistance in West Virginia in getting the mining price up so that com-
1644 petition will not prevail. When we ask that what do we find? Operators have told me in years past that they were willing to have the miners organized in Ohio, but they were not willing that their miners should be organized in West Virginia. We find as great opposition on the part of the operators from the State who have mines in West Virginia as we find from the operators resident there. If we are going to work along the line of mutual benefit, let us make West Virginia a union State. Go down there and practice what you preach in Ohio. Help us get the protection of the law in that state and I think we can organize the miners. Instead of helping us, what have you done? You have done nothing but retard the progress of our organization in that State. The reason they have assigned to me for their attitude was that the calibre of the men employed in the mines of West Virginia was such that if they were organized it would be impossible to control them. I believe that a large percentage of those men are as intelligent as we are, and once they understand the benefits of the organization and the benefits of the contract we enter into, they will observe those contracts as religiously as the miners in Ohio, Pennsylvania, Indiana or any other State.

I cannot understand how we are going to benefit ourselves or going to eliminate in any degree this keen competition we now complain of by reducing the miners' wages. If the conditions as they are painted in West Virginia, are true, if you were to reduce the wages in this State 10 cents a ton, [of] if you were able to force such a reduction on us, don't you think the operators in West Virginia would im-
1645 mediately reduce their miners again? Then would you not have the same competition? At one time we took a reduction voluntarily of 20 cents a ton. You said at that time if we would make the reduction it would improve conditions. I fail to find that it did so. I know on pay day when I went to the office to get my wages I had less money in my pay envelope with which to buy the necessities of life. That condition prevailed for years, but we were finally able to get it back. We have got it now and we hope to retain those prices, and to get better prices, because we believe the more money we get the more money we will have to spend, and the better it will be for the interests of this country. Cheap la-

bor here or anywhere else is not good for any government; it does not produce business. We must have sufficient money to make good business. A great majority of the people are workingmen, and workingmen find it necessary to spend all the wages they get to maintain themselves and their families. That makes business. By reducing wages you will reduce our purchasing power."

Mr. Grant: The same exhibit, pages 118 and 119, statement by Mr. McCullough.

Mr. Warrum (reading): "I listened the other day to the reading of the bill of rights as presented by the floor manager of the operators, Mr. Maurer. It was a beautifully prepared statement, and I listened to it with great attention; but when he came to the last final appeal to the miners, it was, "Place us on a competitive basis with the miners of West Virginia". What does that mean? I believe the gentlemen from the other side of the house presented that with the same insincerity they believe we presented
1646 our demands. I wonder if anyone believes that by reducing the price of mining and [comong] on a competitive basis with the operators and miners of West Virginia, it would eliminate competition. No, my friends, the competition then would become more keen than it ever has been in the past, but it would be along another line. It would come then to this point and resolve itself to this proposition: That there would be a competitive struggle with the miners and the operators of the United States as to who could reach the level of the beast first. As we would go down in the wage scale, our environments would naturally have to change to meet the change in conditions. The little fourteen by sixteen houses some of us live in would be made smaller, the cracks in them would become larger, the conditions of employment would become worse, and as the industrial environment of the working class would become worse; men would become that much nearer the level of the beast. We would go down, down, and there would be a fierce struggle to see who could produce coal the cheapest. If the miners of West Virginia could produce it cheaper we would be forced in self-preservation to go over the river and produce coal there. The operators would have to go into the same struggle. They would have to give up their beautiful mansions, their fine roadsters, their yachts, give up their luxuries, dispense with their high living, they would have to take their daughters and sons out of college, they would have to give up their social functions, put themselves

on the level of the miners and give their coal to this grand and glorious public we talk so much about, for nothing.

I do not believe the operators would compete along
1647 those lines, and I do not believe the miners would permit them to do so. We believe in doing all we can to rectify the wrongs that now exist between the different coal competing states. We believe in the operators in Virginia bringing up the standard of the miners there. If the operators would put their shoulders to the wheel and do what they could to make it possible for us to go over there and talk to them we might be able to do something with them. You may say, "Oh, you may say we can do that now". Are you not all members of the great political parties which control the politics of West Virginia? How many of you have appealed through the press of the country against the outrageous assaults and murders of our men? I have never seen a protest coming from you men in regard to the conduct of the operators in West Virginia when they hire men to kill our people, and where the law makers and the law executors of that state sit by and say nothing of the assaults and murders. If you men did half as much as we have done toward organizing West Virginia and making conditions better, I believe there would be a change in the coal industry of this country. But we are not going to compete the way your proposition presents itself; we are going to compete along those lines until first you have wiped out every vestige of organization there is in this country, and then we are not going to do it. If it were done, from the ashes of the organization you destroyed, would arise another organization more compact and powerful that would [resits] any such thing as that."

Mr. Grant: The same exhibit, page 224, the remarks by President Lewis.

1648 Mr. Warrum (reading): "I recognize that there is competition from West Virginia; I recognize also that there has been keener competition between the operators of West Virginia. You have said that you have to keep the seling price at a lower figure in order to keep your trade. The excuse for slaughtering prices in the past two years was that you might get trade, and that after you got it you could keep it."

Mr. Grant: The same exhibit, page 240, the remarks of Mr. Lewis.

Mr. Warrum (reading): "During our deliberations on the question of conceding to the mine workers an advance

in wage the operators' strongest argument was their inability to pay the operators' strongest argument was 778 bility to pay an advance because of the alleged competition from certain sections of West Virginia. Our answer to that argument has been that it was not competition from West Virginia that caused the low selling price of coal in the districts represented in this meeting. Our arguments and our statements have been that because of the competition among the gentlemen who are in this convention the selling price of coal is as low as they claim. We have challenged the operators to refute that statement, and up to this time they have not been able to successfully do so. We claim, Mr. Chairman, that we are on the eve—no, we are right in the midst—of the beginning of one of the most prosperous industrial periods this country has experienced in the last twenty-five or thirty years. We claim that the operators will share in this era of prosperity; we claim that every manufacturer in this country of ours will do likewise, we claim—and there is every evidence to support our proposition—that the railroad companies controlling the transportation system, the men who purchase the largest part of the commodity we produce, will share likewise in this prosperity that now is here and that will grow brighter and better for the next few years. We claim that because of these conditions we, as mine workers, must share in these improved conditions, and we are unwilling to renew a wage contract that will not carry with it an advance in our wages. Our friends on the other side of this proposition have been compelled to acknowledge the abnormal increase in the cost of living. There is no disputing the fact that our men, as far as their earning power is concerned, coupled with the purchasing power of the results of their labor, are not as well off today as they were ten years ago, or at any time between that period and the present."

1649

Mr. Grant: From the same exhibit, page 356, remarks by Mr. Lewis.

Mr. Warrum (reading): "We have reached that point in our deliberations where it seems we are about to separate. I am not at this time going to say anything about good or bad features of the interstate or joint method of arranging wage contracts. We have endeavored quietly, earnestly and intelligently to reach some basis of settlement and to avoid a suspension of work in the mining industry of this country. No man living can say that I am a [psesimist]; I never was and I never expect to be. During the deliberations of this meeting and during every other joint confer-

ence I have ever had anything to do with I can say
1650 truthfully and honestly that my methods of fighting have been honest and above board. We might, if we had been so inclined, have made an effort to lead the men we have the honor of representing to believe they were getting something they were not going to get. That is not my method; that is not my way of doing business. If the men are going to get an advance in wages and an advance in everything else for which they render labor, I want to say that they are going to get it and be able to say later they received everything they were promised.

I am not going to say now or at any [othe] time that the miners have become parties to a contract that carried with it certain advantages in wages, and then later tell those men, after their hopes and expectations had been aroused, that that was not what was agreed to but it was something else: It is because of those things they have in some districts in this country lost advantages we believed we had secured by reason of negotiating and signing contracts. There is no need to discuss that matter any farther than to make that statement. We have reached that point now where, to me at least, it seems there is nothing to do but to adjourn this convention and we as miners will formulate our own plan to meet that issue and endeavor in our own way to protect our rights as wage earners, as members of the United Mine Workers and as citizens of this country.

I fail to see where there is any necessity of prolonging the sessions after what has been said by the operators this morning. When I say a thing myself I mean what I say and am willing to support that position to the limit. I want to say now that [wnatever] policy is outlined by the miners in separate convention, that policy will be carried into effect
1651 so far as I am concerned until victory is perched upon the banner of the United Mine Workers, or until we are completely routed from one end of this country to the other. I want to say that under like circumstances, if it shall fall to the lot of the miners to be defeated, then I shall recognize the right—because I shall be compelled to—of the operators to name the terms under which we will be permitted to labor. On the other hand, if we are successful everything within the power of human agency will be done to make this impending conflict a success.

Then as the victors we will say to those on the other side that we will dictate the terms upon which we will be employed, or upon which our labor will be sold to those who operate and

manage the mines of this country. And if the motion is made to adjourn, in line with my position at all times, I am prepared to second that motion and vote upon it."

Mr. Grant: The next is Exhibit 30 f.

Mr. Warrum: I want to read first the title page:

"Proceedings

Interstate Joint Conference, 1912.

Coal Operators and Coal Miners.
of
Western Pennsylvania, Ohio, Indiana
and Illinois.

Indianapolis, Indiana.
January 26 to February 1, 1912.

Cleveland, Ohio.
March 20 to 30, 1912.

Stenographic Report by Mrs. Mary Burke East,

1652 Indianapolis, Indiana.

Mr. Grant: Next is the report of the Credentials Committee, page 7, of the same volume.

Mr. Warrum: We will, if the Court please, introduce this in evidence, but not read it.

The Court: We will consider it read.

(The part referred to, is in words and figures following, to-wit:)

"Report of Committee on Credentials.

Indianapolis, Indiana, January 26, 1912.

The Credentials Committee met and elected Mr. Donaldson, of Pennsylvania, Chairman and Mr. Bittner, Secretary.

We recommend that eight representatives representing the Operators and Miners from each state, as named by secretaries of different states, be seated as delegates to this Joint Conference, and that Mr. White be seated as an ex-officio member.

We recommend that each delegation can name any substitute at any time they desire.

Following is the list presented by the secretaries of the different states:

Western Pennsylvania Operators—W. K. Field, J. A. Donaldson, George W. Schleuderberg, John H. Jones, W. W. Keefer, James O'Neil, W. A. Luce, J. T. M. Stoneroad.

Western Pennsylvania Miners—Francis Feehan, Van Bittner, George Dagger, F. P. Hanaway, William Hargest, John O'Leary, Sidney Davis, James Charlton.

Ohio Operators—E. A. Cole, G. C. Weitzell, C. L. Cassingham, Edwin Jones, P. Y. Cox, Michale Gallagher, C. E. Maurer, S. H. Robbins.

1653 Ohio Miners—John Moore, John Zelenka, G. W. Savage, T. L. Lewis, H. A. Lanning, George Cecil, John Saxton, Lee Hall.

Indiana Bituminous Operators—J. C. Kolsem, Hugh Shirkie, P. H. Penna, A. M. Ogle, David Ingle, H. B. Talley.

Indiana Block Operators—M. L. Gould, John H. McClelland.

Indiana Bituminous Miners—W. D. Van Horn, G. W. Lackey, Charles Fox, David Robb, Ed Wallace, George N. Jones.

Indiana Block Miners—James Holden, George Phillips.

Illinois Operators—H. N. Taylor, A. J. Moorshead, W. L. Schmick, O. L. Garrison, F. W. Lukins, Silas Shafer.

R. W. Ropiequet, John Reese (5th and 9th District.)

Illinois Miners—John H. Walker, Duncan McDonald, Groce Lawrence, James Lord, John W. Jarrard, William Hutton, James Shaw, Adolph F. Germer."

Mr. Grant: The same exhibit, on pages 14 and 15, and 16, presentation of miners demands.

Mr. Warrum: We will have this introduced, and there is no necessity to read it, it is a long scale committee report, and miners demands, and we ask leave to introduce it in the record without reading it now.

The Court: It may be so considered.

(The part referred to and so offered in evidence, is in words and figures, following to-wit:)

"Report of Scale Committee.

"Whereas, The ever increasing and already too high cost of living without a corresponding increase in the wages of our members is making it not only impossible for our people

to keep pace with the improvements in their standard
1654 of living that modern civilization makes necessary, and which they should have, but is making increasingly hard and bitter the struggle to get even the barest necessities of life, and

Whereas, The invention of labor-saving machinery; the introduction of oil and gas as fuel; the utilization of electricity generated by our waterways and the prospective development of more and more of it as well as the greater efficiency of the modern organization and more highly skilled labor, are making necessary the long hours of labor on the part of the workers; and the especially dangerous nature of our calling, away from the light of day; isolated from all other human beings; surrounded by unknown and unknowable dangers; our health affected and our lives shortened by being compelled to inhale continually the deadly damp, poisonous gases and equally enervating and lung-befouling millions of particles of the always-present dust and smoke, we believe that we are entitled to a substantial increase in our wages and that our work day should be minimized.

Miners Demands.

1. That all coal be weighed before being screened and paid for on the mine run basis and that the readjustment of the prices be made on the basis of the actual percentage of screenings as compared with lump coal.

2. That we demand a flat 10 cents per ton increase at the basing points.

All dead work shall be paid for.

3. Twenty per cent increase on all dead work, deficient work, yardage and day labor.

1655 4. Uniform workday and wage scale for all classes of outside and inside day labor.

5. A proper readjustment of the machine differential at the basing point in Illinois, Indiana, Ohio and Western Pennsylvania.

6. That a uniform day of seven hours at the working place for all classes of inside labor be made the basis of the above scale, based on present prices.

7. That five hours constitute a day's work on Saturday.

8. We demand weekly payments. The coal companies shall not be permitted to have more than two weeks' wages held in their offices at any one time.

9. We demand that [threr] shall be no limit to the amount of deductions made through the companies' offices for the miners' organization.

10. We demand that there shall be no discrimination by the coal companies in the employment of mine workers on account of creed, color or nationality, or because of activity in matters affecting the organization, and that every mine worker shall be given work in his turn when applying for same.

11. We demand that all local inequalities and internal differences be referred to the districts affected.

12. We demand that this contract shall be entered into for a period of two years, becoming effective April 1, 1912.

(Signed) JOHN P. WHITE,
President,
FRANK J. HAYES,
Vice-President.
EDWIN PERRY,
Secretary-Treasurer."

Mr. Grant: The same exhibit, pages 16, 17 and 18, remarks of President White.

1656 Mr. Warrum (reading): "Mr. White: I think, Mr. Chairman, that like all demands we have made, they are based on the fundamental principles of justice. We felt in making them that we were entitled to what we asked. The first demand is, "That all coal be weighed before being screened and paid for on the mine run basis, and that the readjustment of the prices be made on the basis of the actual percentage of screenings as compared with lump coal." Their reasons have been so well assigned for that demand that every miners' gathering and every joint conference I have any recollection of has discussed the only correct system by which coal should be weighed. I don't know anybody who has had a better experience of that than the Illinois operators. They realize the value of the mine run system, and it has been in effect there for, lo, these many years.

To the miner making that demand, while it has been denied to him in many sections of the country, it nevertheless is the goal which he is striving for. It is the correct method of measurement by which the miner holds he can get justice. The miner believes it is not necessary that his coal should pass over a screen in order to make him a good miner. It is the correct principle and is one the miners, season in and season out, have maintained is the only system by which their product should be measured.

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1657 The miner believes it is not necessary that his coal should pass over the screen in order to make him a good miner. It is the correct principle and is one of the miners, season in and season out, have maintained is the only system by which their product should be measured.

Again, in line with the preamble of these demands, "The ever increasing and already too high cost of living without a corresponding increase in the wages of our members, is making it not only impossible for our people to keep pace with the improvements in their standard of living that modern civilization makes necessary, and which they should have, but is making increasingly hard and bitter the struggle to get even the barest necessities of life", must be given some consideration in the joint councils of our organization. The miner finds himself at the end of the scale period hampered by the increased cost of the necessities of life; he finds himself surrounded by many conditions over which he has no control. He is compelled to purchase the necessities of life at an increased cost, and consequently, in order to meet this proposition he feels he has to have a corresponding increase in his wages.

Usually the miners live in isolated communities; they are not located in places where they can purchase as favorably as other laborers do. The miner is frequently compelled to leave a large part of his earnings in a commissary, by reason of the isolation of some of the mining communities.

Again, on the question of dead work. We hold that dead work must be paid for. Frequently our basing scales have not made it clear that this should be done, and the operators in

1658 many sections have escaped the responsibility of paying ing for dead work, on the ground that it was not covered in many instances specifically in the basing agreement. In some places in the East the miners are compelled to carry twelve inches of draw slate for nothing. They do not get anything for their labor until it is above twelve inches, and then they get compensation only on the amount above twelve inches. Like many other evils, that has been fastened upon the miners by reason of no organization in the early days, but it has staid with them. It is a gross injustice and ought to be, and I believe will be, rectified.

I might go on and point out the equity of the miners' position as set forth in their demands. I believe each and every one of them can be supported by argument. The readjustment of the machine differential at the basing points, I think, is a question that ought to be considered, in view of the fact that machine mining is on the increase. Nearly fifty per cent of the total product is now produced by machine, and the advantages enjoyed by the machine cause the miners some concern.

We have felt that by reason of the hazard of our occupation and the conditions under which we are compelled to labor; with the danger that surrounds our calling and numerous accidents that occur in the coal mines of this country, more consideration should be given the miners, and we believe we are entitled to other reasons we can supply to justify the course we have pursued and the course set forth in our demands. I do not believe any one of you will care to deny that the increased cost of living is a factor that should be given consideration. It is a serious problem with the laboring man
1659 today. He finds himself at the end of his week's work giving practically all his wages for a mere existence, spending all he has earned to purchase the necessities of life, and the question should have some consideration in our wage conferences."

Mr. Grant: The same exhibit, pages 32 and 33, remarks by Vice-President Hayes.

Mr. Warrum (reading): "Mr. Hayes, Illinois: There is no intention on the part of our organization to compel the companies to take incompetent and undesirable men. Our organization has always stood for the highest standard of workmanship. A man who carries a union card ought to be able to deliver the goods in that respect. An organization that does not stand for those principles ought not to live.

I want to supplement some of the things that have been said here today. One of our demands is for a mine run system. That is not an experiment. It has been tried, and has not been found wanting, in a great many of the coal producing states of this country. One of the objects of this joint movement is to systematize the coal industry and secure a greater degree of uniformity. A great many complaints arise under the screened coal system concerning the disarrangement of the bars in the screens, and there are a great many local strikes on account of it. If we are going to have uniformity we ought to have a system of paying for coal, not two systems. That is a thing ought to strive for. I

hope the time will come when we will have a greater degree of uniformity than we have today. The chief trouble with both operators and miners is the conflicting and un-
1660 just conditions in the districts. In regard to our demand for an increase in wages, I believe an increase in wages will act as a stimulus in the coal trade and will not injure the operators. When the miners of this country took a reduction a few years ago, not only the miners suffered, but the operators as well, because the men they made contracts with asked for a reduction in those contracts because the operators had reduced the miners' wages. That is one reason I believe the increase can be granted. I believe the coal is sold too cheaply today and the miners are paid too little for their product. It will give you an opportunity to sell your coal at a better figure than you are selling it today.

The miners of the non-union fields of West Virginia and the South are not working as steadily as they might be. Competition down there is very strong among those non-union operators. They cannot always ship their coal in the markets of you men because of their geographical location, prohibitive freight rates and other reasons, and in making a scale all these factors ought to be taken into consideration.

In regard to a proper readjustment of the machine differential. There is no question but a great deal of unfairness is manifested in the establishment of the present scales. A machine is worth no more in one state than it is in another, and we find in some states a machine differential twice as large as in others. That is unfair, and it is one of the things we ought to strive to eliminate.

We ought to go over all these problems from a competitive standpoint and find out the relation between the different states, the markets in which they sell their coal,
1661 the freight rates and other matters. We are always anxious to take these things into consideration. We do not believe the rates we are asking are prohibitive, we believe they can be paid. The increase you granted us two years ago did not diminish the production of coal. The increase of the production of coal in Illinois alone amounted to almost 2,000,000 tons in spite of the fact that the statement was made that our scale was prohibitive. There has been an increase in the production of coal in other states, notwithstanding the fact that there were slight increases in wages.

In regard to a shorter work day. There are about twice as many mines in this country as are necessary, and in view of that fact a shorter work day is absolutely necessary. It will not interfere with the production of coal in any respect, and will insure a better division of the product and a better division of the work. Outside of that lies the economic reason, the human reason, the reason that the employment is one of the most hazardous in the world. That should be taken into consideration. There are three thousand men killed every year in the mines. The miners breathe poisonous gases and fumes eight hours a day in the union mines, and ten and twelve hours in the non-union mines.

I have had charge of the organizers during the past year, and we have made every possible effort at our command to spread the gospel of unionism into the non-union regions. The future looks bright. Today there is a splendid sentiment among all the non-union operators of the South in favor of this organization. I want the operators to
1662 realize that this organization is doing everything in its power to limit unjust competition. We believe in fair competition between operators, and I want to assure you that we are doing everything in our power to limit unjust competition. I understand that will be the basis of your argument in this conference, as it has always been.

I want to show our sincerity in desiring to put the coal industry on a higher plane than it ever has been in the past, That can be done only when all sides and all parties are cooperating together for that one common purpose. I want to again impress the thought that an increase in wages will not in any way handicap the operators, but will, in my opinion, act as a stimulus to the industry. They never lost in the past when they gave an increase to the miners, but they did lose when they asked a reduction from us. If they grant our demand there will be some room for the operators to go go out and say, "We pay our miners a living wage, they are entitled to it because of the increased cost of living, we will have to have a little higher price for coal than in the past." I think our demand is an entirely reasonable one."

Mr. Grant: The same exhibit, pages 46 and 47, statement and argument of Mr. Feehan.

Mr. Warrum (reading): "I am going to present argument to show that not only should we refuse to accept a reduction in Western Pennsylvania, but the demands of the Mine Workers, which were rejected by the operators here,

are justified by the conditions of industry in the district I represent.

The operators in the preamble of their demands which
1663 they have presented here refer to the competition [which they have presented here refer to the competition] which they have to contend with, which has existed for a great many years and likely will continue to exist. Despite the competition in the past, despite the competition they may have in the future in the coal business, they will be obliged to concede the reasonable demands of the miners.

Western Pennsylvania has a vein of coal that can be shipped anywhere in the United States and it can find its markets. Those who are interetsed in the industry there or who have their money invested are fortunate to have such an excellent quality of coal. There is nothing to compare with it in the United States for gas and steam coal. And the Mine Workers who is employed in the mines there is unfortunate because Nature has placed about a foot of heavy rock and slate overlying that vein which he is obliged to handle with the product.

The complaint is made that competition from West Virginia is responsible for these unusual demands of the operators at this particular time. In 1904-05, when our miners were employed at the scale of wages the operators now present, the shipments to the Lakes were about half of what they are at the present time; in other words, we have more than doubled our shipments to the lakes since that period. That is not evidence that we are suffering seriously from competition from West Virginia or from any other source in the Pittsburg District. In other words, in 1904-05 the shipments from the Pittsburgh District to the lakes amounted to a little over five million tons. The shipments for 1910-11
will reach over ten million tons. Competition may
1664 have great volume of our tonnage is shipped during the lake season, but it would not have done for the operators of our district to have received the same prices they formerly did or there would be [cush] a development in Wetsern Pennsylvania that very likely Ohio and West Virginia would have been excluded from those markets."

Mr. Grant: From the same volume, page 66,—no, page 49, of the same book, Mr. Penna's statement.

Mr. Warrum (reading):

"The arguments indulged in here with reference to West Virginia—and I have heard that ever since I have known anything about mining coal in the United States. It has been the same old song always, the same old continuous cry that the miners cannot advance farther in this competitive district with West Virginia where it is. It has lost none of its force by age. It is as forcible, or more so, today than it ever was, and the Mine Workers' Union has always recognized that force. No matter what may be said here in this meeting, the history of the past, the work that has been put in in West Virginia, the money that has been spent there and the continuous [attemptes] on the part of the Mine Workers' Union—with more or less zeal—is [evieence] of the fact that the Mine Workers Union recognizes that West Virginia is a drag on this competitive district.

It isn't any use for us for a minute to hoodwink ourselves or each other, or laugh at the idea of competition or attempt to minimize its effects, it is present and it must be reckoned with. The mine workers of West Virginia either do
1665 not want to be unionized or the employers in West Virginia do not want them unionized, or both.

I am not going to attempt to explain why the men of West Virginia do not want to be unionized. That has never been clear to me; I don't understand it; but I can understand why the employers do not want them organized; and one of the chief reasons is because they see and know from public and private sources how the employers are treated in localities where the union is strong. And they properly conclude that it is cheaper by any method which they may see fit to adopt, by all the methods which they may see fit to adopt, it is cheaper to adopt those methods and pay the bill than it is to submit to the unionizing of their properties. They are properly afraid of what might be the consequence. They will read the reports of this meeting. They have of other meetings just like it. They see where we have talked of a desire to unionize West Virginia for only one purpose, namely, to exclude them from the markets in order that we may replace their product with ours. And hence they lay back and conclude "We are going to take no chances. We have those markets and we are going to maintain them as long as we can and encroach as much farther as we may." They see reports of meetings of this kind and of the miners' demands. They read of the continued strikes and disputes and turmoils and violations of contracts in districts that are unionized, and they conclude it is cheaper to remain

non-union, that it is more profitable, after paying all of their expenses, than it is to unionize.

And I say to you, gentlemen, that the West Virginia operators are not alone by any means. There is other
1666 competition than that of West Virginia. Kentucky is a vast, developing state, and between West Virginia coal and Kentucky coal Indiana has no bed of roses. It may surprise you gentlemen to learn that in the State of Indiana alone there is a very, very large portion of West Virginia coal and Kentucky coal consumed in our own natural markets that cannot be reached because we cannot produce coal cheap enough to reach them. You may know that. We know it. It is public information.

If it were possible to make a contract in this conference that would influence the mine workers of the United States —I don't mean influence them directly—but to make it in this conference and guarantee its acceptance and put them on an equality, then I am willing to concede that there is no impropriety in your demands. It would be a matter of indifference, within reason, to the operators as to what they paid and the number of hours" the mines were in operation if there was this uniformity of which we speak. The people over here would be pleased, I expect, to concede any demand you might make within reason if you would only permit them the control of their property.

But that is not the situation, and however much we may talk no matter how long we may talk, the fact still remains that a majority of the tonnage of the United States is produced by non-union labor. And this competitive field is more directly influenced by that non-union product than any other locality in the United States. I could not say positively how many men there are in the states of West Virginia, Kentucky and the bituminous field of Pennsylvania
1667 that are non-union. I don't know. I expect there are in the neighborhood of 150,000 or 160,000 men, butted right up close to the edge of our territory all around us, ready with their cheap labor, with their greater number of hours of work, with a good production to supply any market in which they can get a footing, and enabled to get a footing in almost any market they desire by reason of the non-union and cheap product.

In 1911, as compared with 1910, our little state fell off approximately six millions tons of coal. Our 1910 product was unusual, it was larger than it had ever been, due to several causes. One was the fact that Illinois was on strike.

Another cause was that the general increase in the consumption of coal all the world over was enormous. There was not a coal producing country in the world that did not enormously increase its tonnage in 1910. Every nation on earth producing coal increased its tonnage. Indiana did not increase very much beyond its proportion, and what it did increase beyond its proportion we attributed to the strike in Illinois.

This year we have fallen off six million tons or thereabouts, approximately 32-½ per cent of our production, and while we were doing that in the twelve months of 1911 West Virginia increased practically twelve million tons in the same year, or nearly a million tons a month. Kentucky, on the south of us increased her production. Ohio lost several million tons in her production last year as compared with 1910.

Now, that is our situation in this competitive field, and in view of such a situation it does not seem to me we
1668 can consider for a minute the payment of any advance in prices. The argument is in favor of the opposite—the reduction demanded by the operators."

Mr. Grant: The same exhibit, pages 63, 64, 65 and 66, remarks of Mr. McDonald.

Mr. Warrum (reading: "As one representative of the Illinois miners I want to reply to some statements made by Mr. Taylor with reference to our settlement over there. He says the sensible, sober-minded miners of Illinois admit they have made a mistake. I don't know whether Mr. Walker and myself can be considered in that class or not; but I want to say we have made absolutely no mistake in the settlement we made. The recent coal reports issued will convince you that Illinois has held its own, so far as work is concerned, with the balance of the coal producing states of this country. I have been looking it over in the last day or two.

I had occasion last summer to visit a number of the coal states, and away up in the State of Washington when I was there in August two mines there were operating with some degree of regularity. The rest of them were closed down or running from two hours to two days a week. I met later some people from West Virginia, and they said they were doing practically nothing in that state. I had occasion a few days ago to be in attendance in a joint conference in West Virginia, in the Kanawha Valley, where we have some semblance of an organiaztion, and the operators made the same complaints about [competion] that you are making

here. I have heard operators in the State of Missouri
1669 say they could not sell their coal on account of competition from Southern Illinois. It makes a difference whose ox is gored? It is no fault of the miners when they are doing practically nothing. It is no fault of the miners in West Virginia that some of the non-union operators were shut down during the summer.

Referring again to the scale we established in Illinois. There were certain inequalities we had complained of ever since we had a scale in Illinois. The operators of other parts of Illinois to ld us when we made the contract a year ago last spring that unless those inequalities were corrected they would refuse to make a contract with us again, that they were gradually being put out of the market and we had to correct evils in Southwest Illinois and bring the mining rate up higher than it was in order to protect them. We knew that what they were saying was correct. The C. B. & Q. built a line down there, bought up the old Jacksonville road, and they haul more coal out of there because of favorable conditions and low mining price, right up through other portions of Illinois, than was coming out of any other part of the state.

For a number of years past we complained of the rate in Southern Illinois, and operators who were not interested there complained with us; but of course when they went into their meetings, like good union men, they stood with the others. But as soon as they came out they said to us, "You fellows have got to do something with the Southern Illinois miners or we will be put out of business." A former arbitrator who had decided the rate in that portion of the state had made the statement that as soon as Southern Illinois had
favorable railroad facilities the mining rate would
1670 have to be changed to protect the other parts of the state, and we did that.

We changed the mining rate in Northern Illinois, where Mr.Taylor's mines are, because there was a larger per cent of lump coal produced there than in any other part of the state. If the mine run was originally based on a certain per cent of screenings which was figured out, about 12-½ per cent as against 40 per cent in Danville, we were justified in making a demand there because of the conditions our men had to put up with in a thin seam of coal. I don't believe, so far as the mine run system in Illinois is concerned, there is an operator in that state who is seriously considering going back on a screened coal basis. I am sure the miners

would not consider going back to a system under which, on pay day, all they had coming to them was a statement showing how much they were owing for house rent and groceries."

"I happen to hear the operators of all the coal producing states express themselves in regard to competition, and every one of them will tell you the other fellow is putting him out of business. The fact remains, however, that the average number of days of operation, outside of certain favored sections of West Virginia, has been pretty uniform. And there are operators here who are interested in West Virginia—they are right in Ohio, Indiana, Illinois. I have thought several times it is a pretty handy thing for the operators to have West Virginia to hold up as an example to the miners. I think they are themselves the beneficiaries of the conditions in West Virginia. West Virginia is not unor-
1671 ganized because we want it unorganized; they are not mining coal in West Virginia under those conditions because we want them to; but it is because certain interests and powers beyond our control have been able to prevent us from changing conditions there."

Mr. Grant: From the same exhibit, pages 74 and 75, statement of President Lewis.

Mr. Warrum (reading): "When the operators proposed a reduction here I made up my mind at first that I would not say anything at all about it, for the reason that they know just as well as we do, regardless of what [mey] be said to the contrary, that if we took a reduction of 30 cents a ton West Virginia would meet it. When we had no interstate joint [joint] movement so far as the Ohio miners were concerned, back in 1895 and 1896, the miners were starving and the operators were going into bankruptcy. The joint movement was the God send that saved them. But the joint [,ovement] [insead] of being extended, has been broken up several times for no other reason than that operators came in here and wanted to look after their own interests, as it applied to certain states; and the miners were willing to take the broadest view of the situation, say, "We will throw her wide open and build a constructive scale from the bottom to the top." I believe when we finally get through here we will have still left unsolved the problems that must be solved some way before we will have a permanent interstate joint movement, before we will be able to induce the operators of the Southern field to become part of it.

If we go back through the history of the movement we
1672 will find the operators of the Central [Competivie]
Field have voted against and talked against admitting anybody else except West Virginia, and they would not admit the West Virginia miners unless the West Virginia operators were present, which was inconsistent on their part.

Reasons have been given for an advance in wages. I am not one of the representatives of the miners who believe that if we can get twenty cents a ton advance in wages the operators can simply go out and say to the consumers, "We want twenty cents or forty cents more for our coal." I did believe, however, that if our demands were conceded by the operators and we were given an advance in wages the operators in the non-union field would immediately concede the advance to their employes. There is a reason for that. They do it in order to keep their men there with them. As a matter of fact, the operators in the non-union fields had a very strenuous time keeping enough men in their mines to operate their plants. They have agents out always, and after they get the men there they have a strenuous time protecting them from becoming organized. I believe there are just as good union men at heart [wodking] in the mines of West Virginia as anywhere else in this country. I believe the operators of West Virginia, or a number of them, would be willing to go into a joint movement if they were convinced that we were sincere, if they were convinced that the movement meant equity for everybody, and didn't mean shutting out of the markets the mine owners of the non-union districts. I make this statement because I have talked to
non-union operators of West Virginia on this subject.
1673 That is their position, and anybody else who goes and talks to them will find it to be true.

We want an advance in wages because it is necessary for us to get an advance in order to meet our modest obligations. I believe this joint movement ought to go on record after we have reached an agreement to have the West Virginia operators and miners meet, not for the purpose of making an agreement—because if we told them that they would not meet us—but to draw up an agreement with them that we don't propose at this time to deprive them of what rightfully belongs to them in the market. West Virginia must market her coal either east or west, because she does not consume it at home. Our districts in this interstate movement, on the other hand, ought to have some natural advantages because of the markets we have in our own states; but our method of doing business is even driving those markets

under the control of non-union operators. We must sooner or later devise some plan to get away from that."

Mr. Grant: The same exhibit, pages 218 and 219, remarks by Mr. McDonald.

(Mr. Warrum reading): "If you are really sincere in your fear of the competition from West Virginia I think you could join hands with us in two ways. You might first induce those in this movement to withdraw their opposition down there and help us do something with the political powers that prevent us from going there. I don't know of one instance on record where that has been done by one coal company or operators' association north of the Ohio River.

We have had men to go to jail. We expect that more of us will go to jail. The penitentiary doors have no ter-
1674 rors for us, as far as that is concerned. And if putting two or three hundred of our men in jail will [organie] West Virginia we will send two or three hundred down. The chances are we will have to get busy with that situation shortly.

The natural conditions in West Virginia are so much more favorable, the quality of the coal and the mining conditions are such that even if you had the same mining prices and conditions they have there is only one thing that would prevent them from taking your markets, and that would be the long haul and increased freight rates. They can start a mine there and dig coal almost from the first day. The point that makes me sore is the fact that some companies meeting us in interstate convention, doing business with us in Indiana, Illinois and Ohio, will go across the border line of West Virginia, take advantage of conditions there and lend their assistance to keep the conditions as they are.

We will grant that in many places the men are able to make pretty good wages the days they work in the organized fields. We do not deny that. But what has been the situation in West Virginia the last few months? We have eight representatives from West Virginia here to attend our Policy Committee, and they say the work in West Virginia has been the poorest for the past two months they have had for years. If they are taking your markets by reason of these conditions, why are they not working steadily? These eight representatives tell me this winter's work is the poorest they have had for years and years. I [dodn't] know

whether or not they are telling the truth, but I have no
1675 reason to doubt it. Even in the non-union districts the operators have been cutting their prices to such an extent they are not making anything.

Owing to the methods of producing coal today and the methods of handling it, if the miners of this country had a four-hour work day they would produce all the coal there is any need for as a general proposition. Four hours a day is more than they have averaged for the past year as a general proposition, from the best information I can get, and I had occasion to go through nearly all the coal-producing states from Illinois to Washington last summer. They were doing no better in West Virginia. The miner must live, whether he works steadily or not, and the fact that he does not get steady work brings down the average wage for the year. Even if he does make a good wage the days he works he has to live the rest of the days. The average wage per year is small.

So far as the competition of West Virginia is concerned, you people have about as much chance and could help about as much to eliminate that competition as we can if you would say to the concerns that are in the Interstate movement that they will either do business all over the country or they will not do business at all. And if you would use your influence with those politicians in West Virginia who have joined hands with the corporations to drive our men out of there and beat them up it might be of some help. In fact, I am inclined to believe it is a handy weapon for you to have every time we meet to be able to point out to West Virginia. There is no question that there are men sitting here who are doing
business in West Virginia. It looks as though it is a
1676 mighty handy proposition to have.

Mr. Chairman, I have taken up this time merely because I wanted to reply to Mr. Penna's statement. The question before the house is that the last contract be renewed, with the same conditions, and that [internatl] differences be referred to the various districts, with the provision that there be no increase in the price of coal. You have submitted a proposition that is as ridiculous as Mr. Taylor says the proposed contract of Illinois is. We can make a good contract in Illinois if we are allowed to do so.

Now we ought to get down to business. If we are going to have a contract, let us get it. If it is advisable to adjourn the conference to a later date let us do so; but let us not sit here and bring up these questions that have no bearing on the case. I did not intend to say anything here and others who have

spoken did not intend to, but we felt called upon to answer the statements that were made. Don't let us sit here another week waiting for the great lakes to open."

Mr. Grant: Same exhibit, page 227, remarks of Vice-President Hayes.

Mr. Warrum (reading): "Mr. Penna referred to my report on the West Virginia situation. [Evey] though we organized the miners of West Virginia we could not establish there a scale of wages that would be prohibitive, that would prevent the West Virginia operators from marketing their product. They occupy a peculiar location. They are far from the markets. Continued harping on them that we want to organize West Virginia miners to allow the operators in the Central Competitive Field to have all the markets is a wrong theory, and a theory that this organization, both miners
1677 and operators, ought to do all in their power to change. That is one reason why there is so much opposition. I believe, to the organization going into that field. The basis upon which this joint movement is founded is the basis of relations between miners and operators to establish competitive wage scales, in order that every union miner will have a chance to work and in order that they will all have a part of the work. If we establish a prohibitive scale in Illinois the miners there will suffer through lack of work, and I am sure we have no such intention."

Mr. Drinker: Mr. Warrum, may I ask when you read quotation "there is one reason", I think it is "that is one reason."

Mr. Warrum: I read it as it was "that is one reason".

Mr. Drinker: I understood you to say "there is one reason".

1678 Mr. Warrum: We will next introduce from the exhibit which I have been reading, the agreement entered into April 25, 1912, but will not take the time to read it, on pages 334, 335 and 336 of Exhibit 30f. (Reading):

"Agreement.

"The United Mine Workers of America having voted to accept the agreement negotiated at Cleveland, the representatives of the miners and operators of the several states were called together as provided and met in Indianapolis, Ind., April 25th, 1912 and executed the following agreement, to-wit:

"Interstate Agreement.

"The following agreement, made and entered into this 30th day of March, 1912, covering the prices and conditions of mining in Western Pennsylvania, Ohio, Indiana and Illinois, for the two years ending March 31, 1914, to-wit:

"First. That the price of mining be increased five cents per ton on inch and a quarter screened lump coal, pick mining, in Western Pennsylvania thin vein, the Hocking, the basing district of Ohio, and both Block and Bituminous districts of Indiana; and three cents per ton on mine-run coal, pick mining, in the Bituminous districts of Indiana and Illinois.

"Second. That the price of machine mines be increased four cents per ton on screened lump coal in Western Pennsylvania thin vein, the Hocking, the basing district of Ohio; four cents per ton on screened lump coal in the Block and Bituminous districts of Indiana, and three cents per ton on mine-run coal in the Bituminous district of Indiana and Illinois.

1679 "Third. That internal differences be referred for adjustment to the various districts affected, it being understood that nothing shall be done in district or sub-district conventions that will increase the cost of production or reduce the earning capacity of the men.

"Fourth. That the inside day wage scale shall be advanced 5.26 per cent, with the conditions of the Columbus Day Wage Scale of 1898.

"Fifth. That all narrow, dead work and room turning and outside day labor shall be paid a proportionate advance with the picking mining rate, viz.: 5.26 per cent.

"Sixth. That the screen hereby adopted for the State of Ohio, Western Pennsylvania and the Bituminous district of Indiana, shall be uniform in size, 6 feet wide by 12 feet long, built of flat or Akron shaped bar, of not less than ⅝ of an inch surface, with 1¼ inches between the bars, free from obstruction, and that such screen shall rest upon a sufficient number of bearings to hold the bars in proper position.

"Seventh. That the Block Coal district of Indiana may continue the use of the diamond bar screen, the screen to be 72 feet superficial area, of uniform size, and 1¼ inches between the bars, free from obstructions, and that such screen shall rest upon a sufficient number of bearings to hold the bars in proper position.

"Eighth. The above scale is based on an eight-hour day as defined by the Columbus Day Wage Scale of 1898.

"Ninth. That there shall be no discrimination by the coal companies in the employment of mine workers on account of creed, color or nationality, or because of activities in
1680 matters affecting the organization.

"For United Mine Workers:

"Western Pennsylvania.

"Francis Feehan
"Van Bittner
"Robert Wood

"Ohio.

"John Moore
"J. W. Savage

"Indiana.

"Bituminous—

"W. D. Van Horn
"Chas. Fox

"Block—

"Lawrence Garrigus
"George Phillips

"Illinois.

"J. H. Walker
"Duncan McDonald

"United Mine Workers of America

"By John P. White, Pres.
"Edwin Perry, Sec'y.

"For Operators:

"Western Pennsylvania.

"Geo. W. Schleuderberg
"W. W. Keefer

"Ohio.

"E. A. Cole
"C. E. Maurer, per M. D. Ratchford

"Indiana.

1681 "Bituminous Coal Operators Assn.

"High Shirkie, Vice-Pres.
"P. H. Penna, Sec'y.

"Illinois.

"Illinois Coal Operators Assn.

"By H. N. Taylor, Pres.
"F. C. Honnold, Sec'y.

"Fifth and Ninth Districts Assn.

"By R. W. Ropiequet, Pres.
"Frank F Tirre, Sec'y.
"J. C. Kolsem, Chairman.
"Edwin Perry, Secretary,

"Of Joint Conference."

1682 Mr. Warrum: From Exhibit 31q, the United Mine Workers Journal, from the issue of September 12th, 1907, an editorial on page 4, entitled "West Virginia".

Mr. Drinker: If the court please, I did not offer anything at all from this book, and while I do not object to it or move to strike it out, I might suggest, that I wish to find out whether the cross-examination applies to books which I have not offered anything from?

The Court: Will it stand, as a part of the case of the defendants?

Mr. Warrum: Their explanation is that they have been made Exhibits to a deposition and brought here, and if so, I assume they have been offered in evidence.

Mr. Drinker: No.

Mr. Warrum: However, they have offered extracts from the Journal, and they have been reading and covering a period dating back to 1910.

The Court: What is this?

Mr. Warrum: This is an editorial,—

The Court. No, what is the book?

Mr. Warrum: The Miners' Journal, and they have read from it.

The Court: Is that the organization's file of the Journal?

Mr. Warrum: Yes, your Honor, and they have read from it to show the purposes and policy of this organization. It would certainly be a strange rule that would allow them to read from the issue of May 1st, 1906, and not allow us to read from the issue of June 1st, 1906.

The Court: That is correct. This is within the period?

1683 Mr. Warrum: Yes.

The Court: Let the record show that the entire period covered by plaintiffs is proper to be covered in the cross-examination.

Mr. Drinker: Whether I offered this issue or not?

The Court: Yes, whether you offered the particular issue or not. I understand the book is an annual?

Mr. Warrum: Yes.

The Court: This is within the period.

Mr. Drinker: Whether I offered anything from the Journal within the period? I offered nothing from any Journal before 1908.

The Court: What is this year?

Mr. Drinker: 1907. But we will let it go, but I assume that possibly under a strict ruling it should not.

Mr. Warrum: This Volume 13, from 1907 to May, 1908.

Mr. Drinker: It occurs to me this is not cross-examination.

Mr. Warrum: We ask it as a part of the cross-examination.

The Court: I think, under the strict rule, it should be confined to the dates covered.

Mr. Warrum: I do not remember the exact quotations, but the volume was read from, which runs from May, 1907, to May, 1908. They read from the 1908 dates, but I do not remember whether it was after May or not, and it is a matter of accident or chance that the volume happens to be bound this way. The next will be after the period at which they began reading.

1684 Mr. Warrum (reading: "West Virginia.

"A peculiar condition exists in the mining affairs of the Little Mountain state. From time immemorial the coal operators in West Virginia (with the exception of the Kanawha district) have opposed by every method within their

power the organization of their employes. Now, as a consequence, they are reaping the inevitable reward.

The officials of the United Mine Workers of America have devoted time and energy to the organization of the mine workers in that state, but these efforts have met with indifferent results. As a consequence of their inability to meet and overcome the opposition of the great combination of capital which controls the affairs of that state, they have, by other methods, succeeded in diverting skilled labor to those districts where men are permitted to exercise their inalienable and constitutional rights. Thus the operators of West Virginia have, up to this time, been unable to secure the services of skilled miners and other workmen whose assistance is so necessary to the profitable and successful operation of their properties. So acute has the situation become that the operators of West Virginia, hoping to defeat the legitimate objects of the United Mine Workers of America, have sent agents to Great Britain and Europe for the purpose of persuading skilled miners to immigrate to the United States and accept employment in the mines of West Virginia. To this end a former district president of the United Mine Workers of America were appointed to the position of State Commissioner of Immigration, and with funds supplied by the coal operators, he was sent to Europe. While we are without accurate information as to the advices returned by him, we do know that the Governor
1685 of West Virginia has invited a large number of representative operators and miners to meet him at the state capitol building at Charleston on the 20th of this month. The purpose of this conference, we are reliably informed, is to devise means whereby practical miners may be induced to leave their homes in Europe, locate and become citizens of the state of West Virginia. Whether or not these plans will succeed is, to say the least, problematical. It is safe to say, however, that no large number of skilled miners would accept employment in West Virginia unless there shall be a radical change in the policies pursued by the coal operators of that state. No self-respecting man, whether he be a native of this or some other country, could maintain that self-respect while working under the conditions of life and labor which prevail in West and old Virginia. Especially is this true when men can secure employment at higher wages, shorter hours and better conditions in any other coal-producing state in America. It is probable that the officers of the United Mine Workers of America will take the necessary steps to inform their British and European fellow-

workers of the facts about the mining conditions in West Virginia.

If the operators desire skilled, sober, industrious workmen they can secure thousands upon thousands of them in America, [providdd] they reverse their policy of relentless hostility towards the United Mine Workers of America. But not otherwise.

In connection with this subject it is strange to relate that while many of the miners in West Virginia are working long hours for low wages and living under conditions totally unfited for human beings, destructive of all that is best
1686 and highest in mankind, they can be influenced and deceived by the special pretexts by which the operators persuade them not to organize. Many of these men believe that the sole purpose of the United Mine Workers of America is to destroy the coal industry of West Virginia. The operators incessantly preach that the miners' organization has no interest in the workers of the Little Mountain State except so to increase their earnings that the operators would be unable to sell coal in competition with their fellow operators. The absurdity of this position will be apparent to the most superficial observer. What interest could we have in injuring or destroying in any particular the industry upon which the men we seek as members depend for their livelihood? What we seek to do is to etsablish for the miners of our country conditions of life and labor which are commensurate with the work they perform (without regard to the place of their abode), and which will enable them to live lives of happiness and contentment, and develop the very best that is in them. We are equally solicitous for the miners of every state. We are desirous that the mine owners of every state should have equal opportunities in the markets. That no advantage would be taken of the West Virginia operators is demonstrated by the rules governing our interstate conferences. If the West Virginia operators and miners participated in these meetings (and they have often been invited to do so) no scale of wages and no conditions of employment could be forced upon them by agreement except by and with their own consent. That is to say, in the adoption of a scale an affirmative vote is required by the operators and miners of every district participat-
1687 ing in such scale convention. Under these rules the operators of West Virginia, or any other district, have it within their own power to defeat not only the scale for their own state, but to defeat an agreement that would apply to any other state. Hence, under these rules and these

conditions, the scale of wages to be operative would necessarily be fair and competitive.

It is, of course, not necessary to say that the operators of West Virginia entertain no such fears. Their whole purpose in making these claims is to influence and prejudice the minds of the men who work for them, and just as soon as the miners of West Virginia awake to a full consciousness of their condition, just as soon as they understand that their fellow workers in other states enjoy conditions immeasurably better than they themselves enjoy, just as soon as they father courage to assert their rights and their manhood, then, and not until then, can they obtain what is their just due."

1688 The Court: There is nothing before me to rule on now.

Mr. Warrum: This is Exhibit 31v, United Mine Workers' Journal, the issue of August 29th, 1912, the editorial on 4th page, entitled "Outside Influences in West Virginia".

(Reading): "The West Virginia operators are again voicing their ancient plea: That the dissatisfaction manfested by their employes is the result of agitation from outside sources, with a view of injuring the business of that State.

"They do not explain how the business of the State is affected by the miserable conditions under which their employes are forced to drag out an existence. Those men and their families, under such conditions as are enjoyed by the miners, in parts of the country where they are organized, and therefore in position to demand decent living conditions, would indeed be a factor for prosperity in the State of West Virginia.

"With the natural conditions that obtain there, the great veins of coal, accessible without first investing large sums of money for sinking shafts, the quality of the coal, insuring a ready demand, West Virginia can hold her own in the markets of the country without imposing on the poor fellows who dig the coal conditions that [appall] and disgust every disinterested investigator that ever went into that field.

"Is it not a shame and a disgrace to those men who reap the profit from those splendid natural conditions, and from the men who work for them, that the citizen soldiers, when

sent into that field to protect life and property had to begin by restoring conditions for sanitation in these com-
1689 pany-owned camps?

"Filth is a natural result of poverty. The normal man revolts from it. You can always find it where humanity is crushed and degraded below the normal. Men overworked and underpaid, which means underfed, crowded into shacks unfit to shelter cattle, with no encouragement or hope for better things; in such environment you may look in vain for the working man at his highest possibility.

"Yes, we will admit that we advise men, under such conditions to revolt. For selfish reasons, if you will. For men living under such conditions threaten civilization itself. Threaten the lives and health of the entire country. Threaten the moral health of the entire country. Threaten the business welfare of the entire community. The intellectual development of the community.

"We court investigation by your governor, by any fair commission he may appoint. We appeal to the soldiers your governor has sent into the mining field.

"Are we not right in advising men, under such conditions, to revolt?

"What does it profit the great State of West Virginia if a few men, who generally live outside of that State, reap great profits, while they denude her of her splendid natural resources? And especially the greatest of her natural resources, her men and women.

"Yes, we will aid those men when they revolt; will aid them with our advice and with what finances we can spare.

"Because they are our fellow workers; because we have suffered as they now suffer. Because we realize that their lives often must pay for their lack of organization;
1690 for most of your terrible explosions could have been prevented if the miners could have collectively demanded remedies for conditions, the more experienced among them knew, could only end in disaster.

"And when we have aided those men to a higher, better life; a better environment; a higher standard of living, every man in the State, business man professional man, working man, will share in the fruits of the victory; will find that a comparatively prosperous working class is the primary cause of prosperity for all."

Mr. Grant: The next is the issue of the Journal of October 3, 1912.

Mr. Warrum: From the issue of October 3rd, 1912, of the United Mine Workers Journal, found in the same exhibit, the editorial on page 4 marked "Both Wrong."

(Reading): "The Black Diamond, a magazine published in Chicago in the interest of the coal trade, is generally recognized as the mouthpiece of the coal operators of the central competitive field, the operators with whom the United Mine Workers have agreements.

"Its issue of September 28 contains an article on the strike situation in West Virginia, in which it calls on all operators to rally to the defense of the West Virginia operators.

"It says, in part:

" 'The statement was made a short time ago that if the miners' union succeeded in compelling West Virginia to pass under its yoke it would not be content with that victory alone, but would ask the newly unionized West Virginia field, together with the other unionized districts of the
1691 North, to support it while it went into a conquest of eastern Kentucky, and from there into Tennessee, and from there into all of the other States not now recognizing the union.

" 'At first this was merely a prophecy, based upon what is known of the eagerness of the miners' union to control all of the territory of the United States, and supported by information which we have been able to obtain from members of that union. However, the presence of the miners' union in eastern Kentucky is no longer a matter of prophecy; the union is already there.'

"Our reason for quoting the above is that the operators of West Virginia are loudly voicing their belief that the strike in the Kanawha district is at the instigation of the very operators whose organ now comes forward demanding that the operators of the central field lend their moral and financial aid to defeat our purpose.

"That we intend to assist the miners of Kentucky, Tennessee and elsewhere to unite in an organization, affiliate with us, if they see fit to do so, we do not deny. That there need be no further mystery as to our intentions, we quote from our International constitution. In Article II, under the caption of "Objects," the first section reads as follows:

" 'To unite in one organization, regardless of creed, color, or nationality, all workmen eligible for membership, employed around coal mines, coal washers and coke ovens on the American continent.'

"Now, that's a big order, but at least it is specific; no need for conjecture here. We have stated our object
1692 and intention to the world.

"But that does not mean that it is for our own selfish interest, or for the aggrandizement of the organization that we stand ready to help our fellow workers.

"It is because they are our fellow workers, because they are oppressed, because we realize through our past experience that they can only obtain conditions leading to a higher, better life, by organization; because we know, if allowed the opportunity, they could gladly join with us, that we are ready and willing to lend them our aid that they may so do.

"We point to conditions under which no man should be forced to labor. To conditions that make for the deterioration of the race; yes, extinction of the race if persisted in.

"The operators cannot deny such conditions exist. They can only attack our motives. And it is to be expected that in attributing motives we never thought of their assertions would [condlict]

"On one side, the West Virginia operators state, "We are making the fight at the instigation of the operators in the organized field."

"On the other side, the Black Diamond, the spokesman for the union field operators , "We are fighting for more power for the organization."

"Both are wrong.

"We are helping these our brothers because they are our brothers; because we realize that the conditions imposed on them are dangerous to every citizen, every worker in this country; dangerous to the moral and physical health
1693 of the country; dangerous to civilization itself."

Mr. Grant: The next is from the Journal of February 20th, 1913.

Mr. Drinker: We interpose an objection to this extract on the ground that it is improper cross-examination in that

no portion of the United Mine Workers Journal of this issue was read on direct examination.

The Court: Can counsel for defendants inform me whether this is within the period covered by the examination?

Mr. Drinker: Yes, sir, it is; and within the year.

The Court: The objection is overruled.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Warrum: From the Journal of Thursday, February 20th, 1913, being from the same exhibit, on page 4 of the issue, an editorial entitled "Statement of Vice-President Hayes on the West Virginia Situation". (Reading):

"The members of the miners' union in the strike field of West Virginia are in no way responsible for the anarchistic conditions existing in that state at this time. The rioting was started by hired gunmen and guards for the purpose of influencing legislation against the miners and to secure the adoption of a bill providing a state constabulary and other vicious measures now pending in the West Virginia legislature. The authorities seem more concerned about protecting the dividends of the slave-driving corporations than they do about dealing out justice to the men who produce the wealth of West Virginia. Hired sluggers and gunmen, better known as guards, have been terrorizing the miners and their families in this region for years. They employ
1694 the same method to keep out the organization as the criminals in New York employed in carrying on their nefarious work, and some of the so-called "leading families" of West Virginia are contributing to these gunmen and sluggers for the purpose of keeping the miners of West Virginia in a state of absolute slavery. We have proof that many men are kept in the mines in the strike field under armed guard and are forced at the point of a gun to work in the mines; and, moreover, several of these men who were imported to the strike field under misrepresentation have been shot and brutally assaulted in attempting to escape from their industrial taskmasters. We have many affidavits in our possession proving the correctness of this claim, and at this time we have a resolution in the U. S. Congress calling for a federal investigation of conditions in the mining fields of West Virginia, and when this investigation is made we will prove that miners have been mudered for protesting against their wrongs; that their wifes and daughters have been brutally maltreated and assaulted; that peonage

exists, and that the constitutional guarantees of free speech and a free press [to] not exist in the non-union fields of West Virginia.

"Our organization deplores violence as a method for adjustment of labor disputes, and we have at no time advised our people to violate the law, but it is common knowledge that the gun and the club are the chief factors non-union coal operators employ to keep the miners in a state of servitude. Such conditions sooner or later are bound to produce the anarchistic state of affairs we now see in West Virginia.

1695 "I am satisfied that Mother Jones and others who were arrested yesterday, charged with instigating the outbreak, had nothing to do with it, and that if it is possible for them to receive a fair trial they will be immediately released."

Mr. Grant: The next is the issue of the Journal of September 18th, 1913.

Mr. Warrum: From Exhibt 31y, the Mine Workers' Journal of September 18th, 1913, page 4, the article entitled "Dark Conspiracy Revealed."

Mr. Drinker: Would you mind stating, Mr. Warrum, whether you read the whole editorial or part of it?

Mr. Warrum: This is the entire editorial marked with green pencil on page 4 of the issue of September 18th 1913.

(Reading): With the hope of drawing the attention of the Senatorial commission from the lawless methods pursued by themselves and the responsible officials of the State of West Virginia during the strike on Paint Creek and Cabin creek, the representatives of the operators are reiterating their silly charge "that a conspiracy was entered into between the miners and operators of the central fields to provoke a strike in West Virginia; to organize that field and to establish a rate of pay for the miners there that would exclude the West Virginia coal from the general market." And, to prove their charges they are introducing the arguments offered by operators and miners of the central States, in open conventions, verbatim reports of which are published and can be obtained by almost anyone on request.

"Surely the discovery of this well-concealed plot must be one of the wonderful achievements of the Baldwin-
1696 Feltz detective(?).

"It is true that the fact that West Virginia coal was competing with the coal marketed by the operators with whom we were trying to effect an agreement was often mentioned by those operators in our debates. Naturally, they would point to the advantages of cheaper rates of mining held by the West Virginia operators as a valid argument against increasing the rates of wages in the organized fields.

"Years ago, when contracts were entered into by states, independent of the rates that obtained in neighboring States, the conditions and prices that existed in Illinois were freely quoted, in conferences, by the operators of Indiana, and Indiana prices and conditions, by the Illinois operators, as reasons for refusing to raise our scale of pay, or more often, as reason for reducing the rate.

"And these arguments might have been construed by interested parties as conspiracies against the neighboring, competing, operators and miners.

"But we found in them only an argument for closer affiliation between the miners of each state; and so with West Virginia.

"If we organize all of the miners of West Virginia, as we have organized the great number of them, they, the miners of West Virginia, will still be interested in holding their share of the markets of the country.

"We hope to go forward, with West Virginia, to our goal of better wages, and through that to a higher, better home life for all the workers in all the mines of the country.

1697 "If it be a conspiracy to help our brothers in neighboring States to better their wages and conditions then it must also be a crime to organize the workers in the next mine; then every attempt to organize is a crime.

"But the benefit to the whole country, conceded to be the results of the organization of the workers are too well recognized.

"West Virginia will soon be as thoroughly organized as Illinois and Indiana, and when it is the operators of that State will wonder why they struggled so hard to prevent a condition that makes for peace and stability in the industry."

Mr. Warrum: If your Honor please, that will conclude our cross examination with the exception of the introduction of the entire speech or address of President John P. White, in the special convention of the United Mine Workers of America, District 21, held at Ft. Smith, from which the plaintiffs have read an excerpt of two sentences. Ft. Smith, May 18th, 1914.

The Court: From what exhibit is that? What is the number of the exhibit?

Mr. Drinker: It has no number.

Mr. Warrum: A portion of that was read, though, was it not?

Mr. Neal: A portion of the speech was read.

Mr. Drinker: It has never been numbered. This was not at Indianapolis. It was one of the papers introduced for the first time here.

The Court: Wasnt it numbered here?

Mr. Drinker: No.

1698 Mr. Warrum: I will see that it is done.

The Court: The reporter should do it.

Mr. Warrum: I will make the motion. If the court please, the plaintiffs have read, and by inadvertence without having the volume from which they read marked as an exhibit,—from the volume containing the proceedings of the Special Convention of District 21 held at Ft. Smith, Arkansas, May 18th, 1914, plaintiff reading from the address of President John P. White. We ask now that the book be marked as one of plaintiffs' exhibits, whatever number the reporter may give it, for identification, as one of plaintiffs' exhibits.

Mr. Drinker: Mark it Exhibit 32. We skipped from 31 to 35.

Mr. Warrum: We will read the entire address of President White beginning on page 10.

The Court: The same being the address quoted from by plaintiffs?

Mr. Warrum: Yes, the same being the address from which plaintiffs made quotation.

Mr. Neal (reading):

1699 "International President, John P. White: Mr. Chairman and fellow mine workers: I have journeyed quite a long ways to be with you on this occasion, and it is not my intention to take to take up but a few moments of your time. I realize that you are here under heavy expense and have been convened in extraordinary session, and therefore will not burden you with any extended speech. I am glad, however, and thankful, for the privilege, as well as the honor, of being with you on this occasion and saying a few words in a general way about the conditions of our organization. I have not as broad an acquaintance with the miners of District 21 as I have with some of the other districts. However, I have known of the value and worth of the organization of District 21 for many years. We have watched your struggles with a great deal of pride and satisfaction and have admired you for the splendid fighting qualities that you possessed. I recall your early struggles for the establishment of our union and the splendid fight you maintained to perfectly establish our principles. Our organization now has become a very vast institution. It has extended its influence now to almost every coal digging field of this country. Possibly at no time in the period of the United Mine Workers have we ever been so bitterly opposed by the opposition as we have been in the last eighteen months or two years. This is probably due to the fact that in the great non-union fields of this country for many years our organization has to great extent at least lapsed into indifference and failed to extend its lines into these rich coal producing countries that [sre] of such prime importance to the organized District of the country.

Last year about this time we were engaged in a tremendous struggle in the West Virginia coal field. More
1700 than twelve years ago the operators of that state succeeded in driving out practically all of the organization, in 1902 and 1903. The operators felt that they were immune from the influence of our movement, and had banked on us never getting in there, and an organizer could scarcely get [outsife] of the city of Charleston to do business for the organization, but after a strike lasting nearly eighteen months, in which many of our people and their sympathizing friends and families suffered all the privations incident to civil war, some lost their lives, other suffered imprisonment and hardships untold, we succeeded in dragging down the tremendous opposition and today as a result of that fight more than forty thousand men can avail themselves of

the privileges of our union, and time will [demonstract] that the effort made in West Virginia will bear rich fruit for our organization.

In the great struggle that is now engaging the attention of the American people in Colorado, you know the Mine Workers of Colorado in the northern section have been on strike for four years and almost two months. They are fighting a battle for the existence of their homes and firesides as well as the right to belong to our union. This fight was inaugurated one year before I became your International President, therefore it was not of my making, but it was handed down to me as one of the heirlooms by the preceding administration. I have had such a high regard for the Colorado miners that I have gone the full limit to try to protect them against their oppression. Colorado is the last state west of the Mississippi River where—the only state west of the Mississippi River, rather, where we have not established the organization. To bring about the results that we desired in Colorado it became necessary to
1701 engage in a campaign of organization in the southern Colorado coal field. There, as in West Virginia, your organization was driven out of there in 1903 and complete routed. The operators felt secure that the union would never come back to bother them any more, however, they looked on with deep suspicion at the little handful of men in the northern Colorado coal field, who had up to this time maintained an organization. They decreed, if the state was going to be free from the influence of the United Mine Workers, that it would be necessary to drive out the last vestige of the organization in the northern coal field." (now comes the first extract read by plaintiff, and in order to make sense and show the context it should be read now and I will read it.)

Now a great many of your men realize how much the organization of Colorado is to progress of the southwest. The great energies of this movement have been spent in recent years, in my mind, in the strong organized districts. We have been engaged in strife and internal warfare among ourselves in the great organized districts so much that the operators in the non-union fields had their own way with everything, so in order to bring about a complete change in our policy, and to extend the lines of our movement into these fields, we had to change that policy, and find some means to enter these fields and get in touch with the men mining coal in these sections. (That is the end of the portion read by plaintiffs' counsel.) It was no light undertaking to estab-

lish the union in Colorado. The men who went down there to represent your organization in an official capacity encounterd a great deal of hardship and subjected themselves to great dangers. However, the union was established in the southern Colorado coal field. We opened offices at Trinidad, Walsenberg and Florence and elsewhere, and at
1702 an opportune time sought a conference with the employers of these mines. They ignored us completely, every appeal that we made, and simply refused to meet with any one, and finally in last September the miners called a convention in Trinidad, and they formulated policies of their own making, which was out before the operators, and the operators were given additional time of more than one week, in order to prevent a strike, and to give them time to meet with the representatives of the men and try to prevent what has since proven to be the greatest industrial conflict that has ever characterized our country. They refused, however, and the men in that field suspended work and marched out of their camp, where they had lived in miserable conditions, and went to the homes furnished them by the United Mine Workers, the little tented homes in the foothills of the Rockies, and during all that severe winter, and Colorado has had a severe winter, those people have endured all the hardships incident to a civil war. We have spent vast sums of money, because we have been fighting the greatest financial interests of this country. Hundreds of armed gun men have been employed to suppress the miners, but in that they failed, notwithstanding they murdered a number of our good people, and the Colorado miner is fighting [valintly] for the principles of our organization. The recent outrages at Ludlow and elsewhere have turned the attention of the entire country. The situation now is in the hands of the Federal troops. After our tent city had been destroyed and several of our striking men workers, and a large number of their wives and little innocents, were murdered and burned and [salaughtered] in the awfullest manner known to society—now, the State of Colorado is bankrupt, they have held a special session of the legislature that adjourned the
1703 other day, and the only thing they did was to appropriate one million dollars to further this warfare against organized labor in that state. We have stood by these men, [ho;ing] to induce the Federal government to take a hand in that battle and bring about a settlement. Every attempt that we have made has proven fruitless, or practically of no result. We have importuned the President of the United States to close those mines and stop them from trying to operate them in order that our people might not

be slaughtered by the gun men. The latest information from Colorado is to the effect that they are raising enough money for immediate purposes, to again put the militia and the gun men who compose the most of the militia now, back into those fields to act as scab helpers and murder our people if necessary. To my mind, if this is done, it will mean a repetition of the horrors of Ludlow and other camps that have been outraged by these desperadoes. It seems to me that we are approaching a crisis in the industrial affairs of our nation. We look upon the Colorado fight as the last great stand of the interests. If the Mine Workers of this country can succeed in overcoming the financial interests in Colorado it will augur well for their policies and for the union in the other non-union fields about to be encountered by the organization.

We have started an extensive campaign with speakers all through the eastern states to explain this situation to the American people. Our International Executive Board has instructed the President to arrange for the convening of a Labor Congress in Washington, D. C. sometime in the fall, by which we hope to have every international union in this country, every central labor organization and every federated union, represented in a large labor gathering. We hope
1704 to so impress Congress with the necessity for prompt action that we can end the rule of government by assassination and government by gun men. It seems to me that this is going to be absolutely necessary before the working man is going to get a square deal. The corporations have studied out a policy of their own. This ought to convince the United Mine Workers who seem to doubt the policy of their organization. It is not an uncommon thing at times to have men who hold membership in our union giving expression to dire sentiments and statements that our organization is no longer a fighting organization; that it is not accomplishing anything in the interests of humanity. The fact of the matter is you can search the broad horizon of the world of labor and there is no more [militan] organization than the United Mine Workers of America. Wherever these questions are raised, wherever these powerful interests are trying to prevent the men of the mines from securing a square deal, this organization is found fighting for the establishment of its principles. In West Virginia, in Colorado, in Kentucky and Tennessee, in Maryland and sections of Pennsylvania, and far off Vancouver Island, this organization has followed out this line and has carried the principles of the organization to these fields where the men stood in so much need. I say that these great powerful in-

terests that I have referred to have been constantly preparing and are maintaining traveling armed armies, maintained machine guns, men of desperate character, recruiting from the barrel houses of the city and the slums, where the sun never shines upon the manhood of their lives, whose sole object is to murder if necessary and to crush out the ideals of the men of the mines. And unless we can get our Federal Government to prevent such practices in the future, this warfare must
1705 go on in its uneven way. We are hopeful, however, that the dead and dying, and the awful slaughter of the innocent in Colorado, will prove not to have been in vain. I not believe that these eleven little children who were murdered like [rates] in a trap, their good mothers died with them, and their fathers suffered a martyr's death, have died in vain. I cannot believe that the publicity that we will be able to give to this awful massacre of the innocents will be made in vain, that out of this awful carnage of death, murder and destruction there will not come a brighter day to the Mine Workers of this country. Possibly I am too optimistic, but I cannot help but believe that an organization that is fighting such a tremendous battle for human rights, such as the United Mine Workers are fighting, will have to fight that battle in vain. Our movement, as I said a while ago, has grown to great proportions. We have within the last two years organized 530 new local unions of the United Mine Workers, and we have added 127,000 new members. We now number nearly 450,000 members, easily we could influence more than 500,000 men in the establishment of wage agreements throughout the central competitive field, and in a few more weeks the Mine Workers of the Southwest will be required to pass upon a wage scale for the future period of their contract. I want to say that industrial conditions this spring are very bad. Thousands of men are out of employment. Our enemies in the non-union fields and elsewhere hope and pray that this organization will become involved in a gigantic struggle for conditions and improvements that they know they cannot get, owing to these conditions that we have referred to, and thus we would expend our energies and money in that way, and the strike in Colorado and elsewhere would be sacrificed and the men return
1706 to the mines. The non-union markets who have enjoyed your markets for years, while you have been suspended to adjust your wage agreements, are bitterly disappointed. They have a number of emissaries in your own ranks, by the way, who are constantly attacking the policy of the union, and who are standing on the house tops, as it were, trying to inspire the men with false hopes, trying to get them to engage in an industrial conflict, when it would spell defeat

to all concerned, and tear down the temple on ourselves, but they are going to be disappointed. The clouds are clearing up, and in a few more weeks, if I mistake not, the sun will be shining bright, and our organization will become more active and more effective in the prosecution of its agreements in Colorado and elsewhere.

We cannot surrender the strike in Colorado. (Now comes the next extract read by plaintiffs counsel and I will read it again here.) You men in the Southwest will appreciate more than any other class of men the establishment of the union in Colorado and New Mexico, for with the fall of Colorado, New Mexico must fall in line. (That is the end of the second extract read by plaintiffs.)

In Alabama, another important non-union coal field, rich in productive powers, great in oppression, the interests down there, just a few days ago, endeavored to bring back our old time enemy Governor ....., to put him back in the governor's seat. They went to a great deal of expense and trouble to bring this modern despot back in the governor's chair if that state, and labor got active, and we succeeded in defeating that gentleman by a good, round majority, a complete rebuke to the interest that were trying to estab-
1707 lish him again in the governor's chair of that state. This simply illustrates that all along the line these powerful interests are watching their cues to prevent the United Mine Workers from establishing their organization. West Virginia now has more than 80,000 men who mine coal for a livelihood. We have not given up establishing our organization in that field. We have just halted the campaign in West Virginia to give our attention to Colorado. We felt that the men of the Southwest deserved that measure of protection that we thought it would probably give them to establish an organization in Colorado.

Our work in Western Virginia has brought considerable relief to the men there. A few years ago on Cabin Creek, it was similar to that in Colorado, but they have now a more enlightened policy. Places where organizers could not go a few years ago, they can go now with absolute safety. They can go up and down the Creek. In the Paint Creek district of West Virginia we have an absolute agreement there, and a check off and all the privileges of the state law, such as we have in any other state, with a check-weighman, and the check-weighman prevails in all of the mines now where our union has been organized. In addition to this, we are about to have a special session of the Legislature in West

Virginia in which we are given to understand that a law will be further established with reference to mine safety, and a check-weighman, and mine regulations, and all these things which we stand in so much need of. And after all this great fight and numerous sacrifices that we have made we can congratulate ourselves on the progress we have made, and my sincere desire is to see our great organized districts free
1708 from industrial strife so we may establish the union in other fields that we have referred to, because any casual observer must know that in the strong organized districts we have about reached the end in our wage conditions unless we can bring about the organization of the unorganized fields.

You cannot keep this movement half slave and half free. The fight belongs to the organized miners to make. You who have tasted of the fruit of this movement, and found out its benefits as compared with the conditions of the past, know that the great brunt of this battle must of necessity fall upon your shoulders, to free these fellow workers in the non-union coal fields of this country.

The awful conditions that grew out of the struggle in West Virginia, and are enlarged in Colorado, my friends, is the darkest chapter in American history. No matter what our statesmen may think, and try to dodge the responsibility of trying to deal with our industrial problems, the issues are fast being driven home to them, and the successful statesman of our time, irrespective of his party ties, is forced to give consideration, and will be forced to give consideration to this all deserving proposition of our industrial system. America's industrial system, is a disgrace. More men are slaughtered in America's industries than in any other country of the world. The coal mines of this country slaughter more men than any country of the civilized world. Yet we have boundless resources. No nation on the earth can afford to give to its working men as much as America, and yet we find the most awful, the most deplorable conditions of industrial affairs prevailing in our land, and in Colorado Mr. Rockefeller ex-
1709 cusing himself from the outrages in Colorado will not suffice. He may try to find peace from this awful condition by being consoled by the class that he associates with. There can be no let up in this fight, despite what may be said to the contrary, until the Colorado miners are clothed with the same rights and enjoy the same emoluments of an advancing civilization, just the same as you men are permitted to enjoy. (Applause.)

I have grown to admire the Colorado miners for the reason that many of them are the pioneers that were driven out of

the Eastern states, and this state and other states that I might enumerate, because of their unionism, and they went West when Colorado was new, when this virgin field of coal was yet undiscovered, and they carried that principle with them, that they were compelled to sacrifice their homes for in the East, and they went out there and in these little mining towns in Colorado they built up nice homes, and reared good families, and were enjoying life as working men ought to enjoy it, but finally this grasping policy of the civilized industrial task master soon found them again, and we find them today engrossed in one of the greatest industrial warfares that this country has ever witnessed. The country has stood aghast at these recent outrages, and now the newspaper writers all over the field are trying to find out the truth. The governor of Colorado has sat idly by and watched this. He is driven finally to say that he represented the cause of the people, and yet he has served the interests so valiantly and so well, and has given evidence to the fact, that notwithstanding that on the public rostrums, I am told, when he made his campaign for the votes of the peopel of that state, and the working men in particular,
1710 that he ridiculed the former governor of that state, Peabody, who dealt with the laboring interests out there in a very drastic manner, and punished them when he had an opportunity, yet this governor has permitted the coal operators to fill the State Militia with their gun men. Even in their own court martial last Saturday they were compelled to admit and furnish the list of men who participated in the murder of these people at Ludlow, and [our] of 165 in Company A, 130 of them were gun men employed by the Victor Fuel Com pany, and in another company nearly all but four or five were gun men, and yet this governor sends the militia in there, not for the protection of the miners, but when the miners get the best of them he sends the militia down there to protect the vested interests, just like Peabody did.

(A Voice: He is a Democrat, too.)

International President White: Yes, he is a Democrat. I might say that he has spent millions and millions in the two counties of that state with his militia, and those two counties paid $12,265 in taxes a year. It is true that we are spending large sums of money, but, my friends, everyone who knows the conditions of Colorado, knows full well that there is positively no spot on the face of the earth, not even Russia, where there is such conditions prevailing as in Las Animas and Huerfano counties, and if it falls to the lot of the Mine Workers to overthrow that citadel of corruption, the world will not forget that this organization fought the battle for the estab-

lishment of government. The people are in [despearate] need, as soon as they enlist in this battle. It remained for the United Mine Workers to establish them in temporary homes, and to furnish food and clothing and shelter them the best they could, and the Colorado miners have fought that
1711 battle in a general way, and have complained very little. They are grateful to the Mine Workers of this country for the moral and financial support that they have received, and I believe that they will prove themselves good soldiers, if providence so shapes their course that they can establish themselves in this organization, as you men have established yourselves in the Southwest, after your long struggle of months and months, as I now recall, and I hope it will not be long until we can herald the good news all over the world, for this tremendous outrage in Colorado recently has been wired all over the world—the other day I received a telegram from way down in South Africa, from a miners federation in South Africa, expressing their sympathy with the American miners, and particularly with the strikers in Colorado who were subjected to such conditions. So you see that while the world is large, that the cause of the laboring men [in] getting more consideration all of the time. I believe, my friends, that this strike now so conspicuous in the public eye, will prove in a large measure the last gallant stand of the interests that oppose the United Mine Workers. If Rockefeller and his millions that he never earned are defeated in Colorado and he is compelled to recognize the explosion, show that the laws were violated and because of such violation the explosion occurred and our loved ones killed, rights of the men who work in his mines, it will go a long ways in my humble judgment to establish your organization in other non-union fields. I know that the men of the Southwest have contributed royally. I want to take this occasion to thank the miners of District 21, and their officers, for the splendid financial support and moral support they have given my administration in aiding me and the Coolrado miners to carry
1712 on that warfare. I am sure that had it not been for the timely assistance they rendered, at a time when it seemed to me to be very acute in our history, it would have been very serious with us to meet that situation. I hope that the Southwest miners will never have to witness such a condition as I have referred to, but if they ever do, and I am in the movement, no matter where I am, I shall always try to do for them my very best. Now, my friends, I want to say to you that I am not going to take up your time any more.

I am here on invitation of your District officers, and I regret most exceedingly the situation that prompts me to meet you here. I feel as though I owe it to you to be here, and I want to say to you that I hope you will approach this problem that you have to approach with deliberate mind and calm, dispassionate view.

You are the great jury that must set in consideration of this matter. Any part that I may have played in it I am here to answer for. I hope you will give the consideration to this all important matter that it merits. This was not of my making, it was not of my liking. A condition of affairs developed here, I just happened to be the man at the head of the organization to take cognizance of it, and for what part I have played in it, I expect to give a full and complete answer. If the miners of this convention at any time during its deliberations, when I am here, feel like they would like to call me to task for the past I have played in this, I hope they will do it in the manner and way that is best befitting. You have a perfect right to request of me that which you desire so long as it is within keeping. I am your servant, and I expect to give you from time to time during the deliberations of this convention, such in-
1713 formation, if it is required, as you desire, and I am in a position to give. I want to say to you that I regret very much that this thing has come up. I know what it means to the organization, and I know what it means to those involved, and I can well look upon it with sorrow and compassion. I have no desire to see our great movement harmed, and I hope, my friends, that in the consideration of this question you will take a dispassionate view of this matter and consider it well. Let us go about it in an orderly way. You have assembled here in extraordinary session to consider this matter, and now, with these remarks, I want to again, Mr. Chairman and Fellow Delegates, thank you for the consideration you have given me, and the privilege that you have extended to me to say a few words to you. I have been traveling a good deal, and making a number of addresses and attending wage conferences, until I am kind of getting a little bit weary, but I will be glad to sit here as long as I can, and if I can be of any help to you, I wish you would ask me, and I expect to remain as long as you think my services in this convention will be helpful, or even needful."

1714 Mr. Warrum: Now, if the court please, we will introduce from this exhibit those references which we will, after the noon recess, more particularly point out in

connection with what this special convention was for. It had no relation to the controversy involved in these issues, but was called to investigate the relation of Mr. Howat, who was president of the organization of District No. 25, and Mr. Holt, who was secretary of District 21, this district, with reference to their conduct in the last Southwestern Joint Conference in Kansas City; so there may be impression that the references in Mr. White's speech to the purposes for which the convention was convened, should be the situation as to the plaintiff companies. And we will more particularly point them out and have them introduced in the record.

Mr. Drinker: We do not think that counsel can limit the effect of evidence introduced. We are perfectly willing they may introduce what they want to, but as to the effect of it in argument on it, they cannot restrict it.

The Court: Of course it would have to be of that character to be competent.

Mr. Drinker: As our reply, as it were, to this cross-examination, we have four short extracts.

Mr. Warrum: We would like to make those indications after the noon recess.

The Court: You may do so.

Mr. Drinker: [I] connection with the editorial that was read from the Miners' Journal of February 20th, 1913, entitled "Statement of Vice President on the West Virginia Situation" on page 4, Mr. Warrum read the first
1715 three paragraphs of the editorial and I will read the final paragraph and a short third paragraph so that the context may be apparent. The last paragraph read by Mr. Warrum was, "I am satisfied that Mother Jones", etc. And now going on after his quotation, "The miners of Cabin Creek", etc.

(Reading): "The miners on Paint and Cabin Creek are striking for the right to belong to the organization, a right guaranteed by the law of the state; the right to have checkweighman on all tipples to see that the miner receives correct weight for his coal, another right guaranteed by the law of the state. The miner also wants the right to spend his meager earnings where he pleases instead of being forced to spend it in the company store and pay two prices for the article he buys. He also wants a living wage and humane treatment, as well as the abolition of the guard sys-

tem, and it goes without saying that there will never be industrial peace in the mining fields of West Virginia until these objects are attained. We will spend every cent in our International treasury, collect a million dollars or more by assessment and tie up every non-union mine in the country, if need be, in order to redress the wrongs of the West Virginia miners, and in saying this I express, not only my own view, but the views of President White and our entire Executive Board."

The next is from the Miners' Convention of 1907, page 336, the remarks of Delegate O'Connor, the second paragraph of his remarks, beginning with the words "In the last special convention in Indianapolis I advocated", etc.

(Reading): "In the last special convention in Indianapolis I advocated the policy of settling by sections for
1716 the very same reasons given by President Mitchell, and I have advocated it in our district, not once, but many times. We are peculiarly situated, and you who were in the special convention remember hearing me say I could save the southern Indiana market if the Perry resolution were set aside. Four years ago sixty per cent. of all the steam coal and practiaclly all the domestic coal used in the city of Evansville, Mt. Vernon and for the southern trade was mined by non-union men. Through the action of that convention, and through our effort last year, we have the non-union coal practically shut out of Indiana. There is only one firm on Main street in Evansville that is using non-union coal, and that is a cigar factory."

From the Miners Convention for the year 1911, page 598, being resolution No. 79, and its adoption by the convention, at page 598 in the middle of the page, and one line on page 599 where it was adopted (reading):

"Resolution No. 79.

"Columbus, Ohio, January 19, 1911.

To the Twenty-second Annual Convention, United Mine Workers of America:

"Whereas, Many strikes by the United Mine Workers of America have been inaugurated to obtain higher wages and better conditions of employment; and,

"Whereas, Many of those strikes have met with defeat, notwithstanding the justice of their cause, because of the fact that labor unions on the railroads, through lack of an understanding to lend their moral co-operation with every

organization should give in time of conflict to each other, have aided the employers to defeat us in those
1717 strikes; therefore, be it

"Resolved, That the incoming International Executive Board be authorized to seek an affiliation with the seven different railroad organizations, viz.: The Engineers, Firemen, Conductors, Trainmen, Switchmen, Telegraphers and Maintenance of Way, so that in time of industrial conflict between employers and employes of any of the above named organizations, including the United Mine Workers of America, all may join together for the purpose of aiding each other in carrying their strikes to a successful conclusion.

"THOMAS HAGGERTY,
"Local Union No. 542.

"The committee recommended concurrence in the resolution.

"Delegate Feehan—I move that we concur in the report of the committee."

"The motion to adopt the report of the committee was carried."

Mr. Warrum: The defendants severally move to strike out from the record the extract from the annual convention of 1911 just read for the reason it throws no light upon the plaintiffs contention with reference to the issues in this case, to indicate any conspiracy such as involved here.

The Court: The court will let the jury be the judge of that. The motion is overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Drinker: From the report of President Lewis for the year 1911, page 60, "Sherman Anti-Trust Law", Exhibit 39j, containing the last two extracts, and the one last
1718 above, 29d, 1907, (Reading):

"Sherman Anti-Trust Law.

"We have in this country a law known as the Sherman Anti-Trust law. Its alleged object is to destroy trusts and to prohibit combinations that are inimical to the interest of the people.

"We have no knowledge that the great industrial corporations have been limited in their authority to control certain

commodities. There is no likelihood that the Standard Oil Company, the United States Steel Corporation and other great industrial institutions will be dissolved by the enforcement of the provisions of the Sherman Anti-Trust law.

"This law, like others enacted for the alleged purpose of protecting the rights of the people, is in reality being used to deprive the wage earners of the rights to organize. We know that the Sherman anti-trust law, as well as may similar state laws, are being used to keep the mining industry from being elevated to a higher standard.

"In my opinion the Sherman anti-trust law and every other law of similar character, should be either amended or repealed, and instead of attempting to regulate corporations and trusts in the manner provided by the Sherman law, the national and state governments should enact laws providing for a method of taxation that would remove any incentive for large corporations to accumulate wealth by illegitimate methods.

"As laboring men, and especially as mine workers, we should lend every influence we possess to repeal those proviisons of the Sherman law that deprive us of our
1719 right to organize and establish the object for which we are united. Now is the time to act as we may at any time be made the victims of a law that was enacted to control trusts but which is being diverted to destroy organized labor."

That is the end of our rebuttal.

Mr. Hull: Does the court desire the plaintiffs to call their witness

The Court: Is he a short witness?

Mr. Hull: No, it will take some time.

The Court: Well, put him on and we will start with him.

1720 O. T. Looper, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your name. A. O. T. Looper.

Q. Now, Mr. Looper, this last juror in the back row must hear every word you say. Just address yourself to the task of making the jury hear every word, will you?

A. Yes, I will try to.

Q. Did you, in the last of March or first of April, 1914, go to work for the Bache-Denman Coal Company?

A. I did, yes, sir.

Q. Under an agreement, a wage agreement with whom?

A. With Mr. Bache.

Q. Immediately prior to that time what had been your experience?

A. Well, I had been operating a little mine,—some call it a pigeon hole and some a slope,—a very small place,—I employed,—well, anywhere from 8 to about 12 men. I had been operating since the fall of 1910, or in the winter of 1910, when I commenced and had operated this little mine up to March, 1914.

Q. Had you been operating that pigeon hole under union or non-union conditions? A. Non-union conditions.

Q. Just some weeks prior to the last of March, 1914, had you sold that mine?

A. I had. I had taken, or we had co-operated,—taken in the men we were working as stockholders in the mine. I sold out my interest or a portion. I just held one interest in the mine, and 8 or 10 men, I don't remember exactly how many, went into the mine as stockholders with me.

1721 Q. After the control of that mine passed to this co-operative company, do you know whether it went onto a union basis?

A. Yes, sir, it did after it was co-operated. They all agreed, or signed an agreement with the United Mine Workers of America.

Q. How long had it been running union prior to the time Mr. Bache started his non-union operations?

A. I don't remember how long, only a short while. I can't remember just the length of time.

Q. Where had you lived prior to the spring of 1914, covering a period of years?

A. Covering a period of how many years?

Q. Say 10 or 12 years?

A. Well, I had lived in Prairie Creek,—Prairie Creek No. 4. There are two Prairie Creeks, one No. 1 and one No. 4; in Prairie Creek No. 4. I had lived there from the year [1910] up until 1908, I believe. I went south then in the saw mills. And in the spring of 1909 I came back to Prairie Creek and stayed there for a few months only. I then came from Prairie Creek to Van Buren, Crawford County, and contracted some work on the levee there, and worked there until in the winter of 1909. I then rented a farm in the fall of 1909, for the year 1910, and I farmed east of Van Buren in 1910 near Cross

Lanes, on a farm known as J. R. Brown's farm. In the fall of 1910 I moved back to Prairie Creek. I bought a pigeon hole, a little mine, a slope it was there, from W. T. Quinley, and I went to operating that, and I operated that for,—up until the,—well, I don't remember just the month, but it was not later than April, I don't think, and I sold my interest out, and I taken notes,—I taken security on the mine, and I went to farming and put in a little crop of cotton down there, 13 or 14 acres.

1722 Q. What year was that?

A. That was in 1911. Later, in the summer,—

Mr. Warrum: If the court please, the defendants desire severally to object to the life history of this witness.

The Court: The objection is sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Q. You need not go into those details of 1911, Mr. Looper. I meant more to bring you right up to the time of the non-union operators here, and I think you have covered that.

Now, when did you go to work for the Bache-Denman Coal Company?

A. I don't remember just the date. It was about,—it was right the latter days of March, 1914, but I cannot call the date.

Q. Under your arrangement with Mr. Bache, what were you to do?

A. I was to assist the superitendant, Mr. Cameron, I was hired as assistant superintendent of the mines.

Q. Do you remember the day you went down to the mines for the first time?

A. No, sir, I don't remember just the date.

Q. Where did you go when you went to work?

A. I started to work at Mine No. 4.

Q. That is Prairie Creek No. 4?

A. Yes, sir, Prairie Creek No. 4.

Q. Coming right down to the 6th of April,—Monday, the 6th of April, do you remember what occurred on that date?

The Court: Gentlemen, I think this is a pretty good place to quit for the noon recess. We have made fine progress this morning and counsel has justified the idea of the court that time could be saved in proceeding as we are doing. We

1723 will now stand adjourned until two o'clock this afternoon.

1724 Tuesday, October 30, 1917.

2:00 o'clock P. M.

Pursuant to adjournment, court reconvened at 2:00 o'clock P. M., the parties appearing as before, and the following proceedings were had.

Mr. Warrum: If the Court please, we want to read a few short extracts from Plaintiffs Exhibit 32. The first is found on page 1.

"Secretary Holt (reading) Special Convention Call, United Mine Workers of America, District 21.

Acting in accordance with a resolution passed by the Conference and Scale Committeemen together with the District Officials in joint session, from the three Southwest Districts. Nos. 14, 21 and 25, held in Kansas City, Mo. upon conclusion of the taking of testimony in the recent investigation which was held under the personal direction of National President John P. White, and in accordance with Article nine (9) Section twenty (20) of the District Constitution, which reads as follows: "Special Conventions shall be called by the President when so ordered by a majority of the District Executive Board."

"Special Convention District 21.

I do hereby call a Special Convention of the United Mine Workers for District 21, to meet in the City of Fort Smith, Arkansas, at the Labor Temple, Monday, May 18, 1914, at 10 o'clock, A. M. for the purpose of considering and acting upon the testimony and evidence contained in the record of the court hearing held in Kansas City, Mo., April 13th to 22nd, inclusive.

1725 Laws Governing Basis of Representation.

Basis of representation will be the same as to regular District Convention as provided for in Article 9 in its entirety, District Constitution.

Upon receipt of this Call secretaries are requested to post notices meeting for the election of delegates.

Notice: Credentials must be in the District office not later than May 15.

By Authority of Unanimous Vote of District Executive Board.

P. R. STEWART, President."

And the conclusion on page 630.

"Saturday, May 23rd, 1914.

Afternoon Session.

Pursuant to adjournment, at 1:30 p. m., the convention reconvened, President Stewart presiding.

President Stewart: Now I will read the resolution again that we are to vote on (Reading):

"Whereas, the evidence in this case has proven that the Southwestern Coal Operators' Association has made one of the most gigantic attempts to corrupt and disrupt our organization, therefore, have placed themselves in the position of men unworthy of belief.

Therefore, be it Resolved, that Secretary Holt be exonerated from all charges brought against him by the Southwestern Coal Operators' Association at Kansas City, Missouri."

The tellers will call the roll, and those voting for the resolution will vote yes, those voting against, will vote no.

(Following is the roll call vote):

1726 Delegate Edwards: The vote is 116 for exoneration and 18 against.

President Stewart: The resolution is adopted."

1727 O. C. LOOPER, resumed the stand, and testified further as follows:

Direct Examination (Cont'd.)

By Mr. Hull:

Q. Mr. Looper, how many days prior to April 6th, 1914, had you been working at the Prairie Creek No. 4 mine?

A. Well, only just a few days, I don't remember the number of days.

Q. What were you doing on April 6th?

A. I was just looking after the work, after the men that were working there.

Q. How many men were working at Mine No. 4 on that day? A. The men on top were only two.

Q. How many?

A. Two top men. I don't just remember what underground men there were.

Q. Can you approximate how many men there were underground?

A. No, I cannot, I disremember.

Q. What was the first that you saw or heard of any demonstration at or near the mine on that date?

The Court: What was this date, I have forgotten.

Mr. Hull: April 6th, 1914.

A. Well, on the morning of April 6th, there were two young fellows, I disremember who they were, came to the mine, and asked me if we were not going to shut the mine down. I ought to call to memory those names.

Q. Now, you did pretty well this morning, Mr. Looper, in making us all hear. Now please be careful about that.

A. (Continuing.) Well, I cannot call to memory now the names of the two parties that came there, some time about 8:00 o'clock, I believe. After they had gone away, then I seen a crowd coming in from toward Hartford, and
1728 also saw a crowd coming from up toward Midland; and a crowd coming from towards Huntington; from the three direction, one from the east, one from the [nort] and one from the south.

Q. Where did those crowds gather?

A. They gathered at the Prairie Creek school.

Q. How far was the school house from the mine?

A. About a half a mile.

Q. Which direction?

A. Just a little north and west of the mine.

Q. State what you saw at the school house.

A. Well, I just saw a big crowd gathering there, is about all I could see. I was not close enough to hear anything, I just saw the crowd gathering there.

A. About how many would you say gathered at the school house that noon?

A. Well, I couldn't tell, there was just a big crowd of them, it looked like seven or eight hundred, maybe a thousand people at the school house.

Q. Did you hear a band playing? A. Yes, sir.

Q. Do you know where that band came from which direction?

A. I don't know what direction the band came from.

Q. Did any of those people from that crowd come down to the mine, if you know? A. Yes, sir.

Q. State what you saw in that connection.

A. Well, there was a big crowd came down there. It seemed like a whole lot more people than were at the school house, but I think they all came from that direction.

Q. Came from school house? A. Yes, sir.

Q. Describe the situation at the mine on that day?

A. Well, after they had assembled at the mines, or
1729 near the mines, near the mine office, there was ropes around the mine.

Q. Where were those ropes, what do you mean by ropes?
A. They were ropes that were put around to keep people from coming in that was not employed.
Q. Were there any signs?
A. Signs posted, yes, sir.
Q. What did those signs say?
A. Well, I disremember what they said, about notifying those that were not employed to stay away, to stay outside the ropes, away from the mines.
Q. About how large an enclosure did that rope make?
A. I would judge about — anywhere from four to five hundred feet in distance, north and south and east and west.
Q. Did that rope connect certain fences that were there?
A. Certain fences, yes, sir.
Q. So that the rope, together with the two fences, entirely enclosed the mine? A. Yes, sir.
Q. Mine No. 4? A. Yes, sir, mine No. 4.
Q. Now state what you saw with regard to the crowd coming down to that rope.
A. Well, after they had gathered there, at the rope, some time, where they was — I was not close to the crowd, and I couldn't understand what they were saying, but after they were there awhile, there was a fight come up, and I noticed a fellow by the name of Barnes, some fellows knocked him down, and he would get up, and there were two or three on him at a time, hitting him, or striking at him, I couldn't say whether they hit him or not, but striking at him, and the crowd would rush in, and there was considerable fighting going on for several minutes.
Q. Where did that fight take place?
A. Just inside the rope, between the mine and the rope, near the office, about to the best of my recollection,
1730 some three hundred feet from the boiler house.
Q. From what?
A. From the boiler house, to where the fight commenced, to the office.
Q. About what time did that occur?
A. It occurred in the afternoon, I don't remember just the time, it seems to me about 2:00 o'clock, the best I can remember.
time, it seems to me about 2:00, the best I can remember.
Q. At the time that that fight occurred, where was the crowd?
A. The crowd was standing along on the outside of the rope, that is ap art of the crowd. Apart of the crowd had already got inside of the rope, and it looked like fifty or seventy-five on the inside, where the fight occurred.

Q. Do you know anything about a committee coming in to see Mr. Cameron, the superintendent?

A. Yes, sir.

Q. State what you know about that?

A. Well, Mr. Cameron and Mr. Slankard,—

Q. (Interrupting.) Who was Mr. Slankard, if you know?

A. Mr. Slankard was the constable, I believe, of Hartford Township; and Mr. Cell Goddard, the marshal of Hartford, the town, they came over to the mine, the two of them. over to Mr. Cameron, where I were, to see — they wanted to get an agreement to pull the fires, and shut the mine down. Mr. Cameron asked me my opinion about it, and I told him, and he suggested that we pull the fires, and shut the mine down.

Q. Who was with you?

A. Mr. Sylsberry and the fireman, — I am a poor hand to recollect names.

Q. Was his name Searles?

A. Elmer Searles—Elmer Searles and Mr. Sylsberry were with me.

Q. And what were you doing, what was your busi-
1731 that day?

A. I was overseeing the mines there.

Q. How is that? A. I was overseeing the mine there.

Q. Did you hear any of this conversation with Jim Slankard, and was it Goddard, you say, the constable?

A. Yes, sir, Goodard.

Q. State the substance of it a little more in detail, what they said to Cameron.

A. I never heard their conversation with Mr. Cameron. The conversation they had was before they came over to where I was, and Mr. Cameron asked me what I thought about it.

Q. What occurred in the boiler room soon after that?

A. Well, we agreed there that we would pull the fires, and I ordered the fireman then to pull the fires, and he went into the boiler room, or started into the boiler room to pull the fires, and the next thing I saw he was running.

Q. That is Searles?

A. Yes, sir, that was Searles, and he was running out from the boiler room, and the men throwing first one thing and another after him, and hollering and laughing and whooping, and he running out, and I and Mr. Sylsberry went in to pull the fires.

Q. Do you remember the committee coming to the boiler room and asking you something?

A. Yes, sir, I remember the committtee from the local.

Q. What committtee was that, who composed that committee?
A. John Manick and a fellow by the name of Howard.
Q. Do you know his first name?
A. No. I used to know his name, but I forget it.
Q. Was it Vester?
A. Yes, sir, John Manick and Vester Howard, and I believe there was another one present, but I don't remember who he was.
Q. What did they say?
1732 A. They just walked up, or come up, and ask us if we had nerve enough to go out and meet that crowd, out of the ropes.
Q. What did you tell them?
A. I don't remember just what I did tell them.
Q. What were you doing at that time?
A. Well, I was there at the mine, there at the boiler room the fireman kept steam, was about all I was doing around there.
Q. Did you go and meet the crowd
A. No, sir, I did not.
Q. What did you do there, what did you order done?
A. Well, I don't believe I gave any orders at all.
Q. I interrupted you when you were saying that you ordered the fires pulled.
A. Yes, sir, but this was after. This committee came after Manick and Howard did, I started in to tell about ordering the fire pulled.
Q. Tell that in your own way, what you did, in relation to pulling the fires, what day, and what you saw.
A. Well, after this committee, Howard and John Manick left, and went away, and this second committee that came with Mr. Cameron and we agreed to pull the fires, and shut the mine down, I ordered the foreman to pull the fires, and he went to the boiler room, or started that way, and the next thing I noted, I heard someone hollering and laughing, and looked out and saw him running, and a crowd after him, and they were throwing first one thing and another after him. I don't know just what it was, but there was a great bunch followed him, and he ran off from the mine. After they came back, and they had got quiet again, some fellow remarked, he said "Looper, I thought you were going to pull those fires, get in there and pull them".
Q. Do you know who that was?
1733 A. No, I don't know who it was.
Q. Somebody in this crowd?

A. Somebody in the crowd and I and Mr. Sylsberry, I think, I said to Mr. Sylsberry, "Lets, pull the fires". We had agreed to, or agreed to have them pulled, and we went in pulling the fires.

Q. What was the crowd doing all that time?

A. The crowd was whooping and hollering and blowing the whistles.

Q. Did they say anything, make any remarks to you?

A. Yes, sir, they were cursing and accusing me all the time, that is, part of them.

Q. Do you remember the man that did most of the talking?

A. A fellow by the name of—a little Italian, I can't remember his name,—Mike Cisto.

Q. Do you know where Mike Cisto had worked, or was working at that time? A. No, I do not.

Q. Was he a member of the union?

A. I think so; I don't remember where he was working at, but his home was in Huntington, but I don't know whether he was working there or elsewhere.

Q. Now, were any threats made against you?

A. Well, they ordered me to pull the fires, and all the time that we were pulling the fires they were cursing and abusing, and saying that we ought to throw him in there, and burn him up, or burn him to death, or something that way. After we had — well, I got so hot I couldn't see to tell anybody hardly, my eyes were almost burned out, and after we got the fires pulled, somebody taken hold of me, I don't know who it was, and said, "Come on Looper, come out here", and I went out. I supposed it was a friend of mine that had taken hold of me. I don't know who it was, and as they got me out the door I was knocked down and beaten up.

1734 Q. How were you hurt, Mr. Looper, describe your injuries.

A. Well, I was hit on the head a time or two, some gashes cut, and I was kicked in the mouth, and teeth knocked out, and kicked on the hip.

Q. How many teeth did you lose, if you know?

A. I lost four I believe, four teeth.

Q. Where did you finally end up?

A. At the hospital here at Fort Smith.

Q. Describe a little more in detail, — did someone help you out?

A. Well, yes, sir, after. The first thing I knew after I was knocked down, the city marshal of Hartford, Cell Goodard, says, "Stand back, boys you have killed him, he is too old a man to be beaten up that way", and there was

another fellow run in, a young fellow by the name of Gywn, and they picked me up and carried me back up to the boarding house, probably a little over a quarter from the mine, and Goodard and this other fellow washed the blood off of me, and straightened me up the best he could, and Mr. Finley came there with his automobile and brought me to the hospital

Q. Was there any doctor in that crowd that beat you up?

A. Dr. Chambers; I heard them call for Dr. Chambers.

Q. What did you hear in that connection?

A. Some fellow hollered for Dr. Chambers to come and dress my wounds.

Q. What did you hear after that?

A. I just heard the voice of some man say, "I would not dress no God damned scab".

Q. With whom did you come to Ft. Smith?

A. I came with Mr. Finley, and a fellow by the name of Barnes, and a John Sylsberry, four of us in the car.

Q. Was John Sylsberry the one that had drawn the fires with you?

1735 A. Yes, sir.

Q. Were Barnes and Sylsberry badly hurt?

A. They seemed to be, they complained mightily.

Q. Could you see that they were hurt?

A. They were beaten up, I could see they were bruised.

Q. Barnes is the one that you testified you saw beaten up, at the rope? A. Yes, sir.

Q. How long were you in the hospital at Fort Smith?

A. I disremember, some eight or ten days.

Q. You were here on account of the wounds which you received on that day?

A. Yes, sir, I was under the treatment of Dr. Cooper.

Q. Who paid your bills, the hospital bills?

A. The company paid them.

Q. Did you ever go back to work there after that?

A. I never did, no, sir.

Q. Did you bring suit some time after that for these injuries, Mr. Looper? A. Yes, sir.

Q. Whom did you sue?

Mr. Warrum: I believe the defendants will separately object to that as immaterial, and as throwing no light on the issues in this case. The matters involved there were not the matters involved here, and the parties were not the same, and the suit and the conduct of the suit, would not be binding upon these defendants.

Mr. Hull: We don't insist upon that, if your Honor thinks it is improper.

The Court: It just occurred to me that it might be an element of damages, if he recovered judgment against these plaintiffs.

Mr. Hull: Of course, that is an important thing, as
1736 to whom judgment went against.

The Court: Is there any claim in this complaint for damages?

Mr. Grant: No, sir, the plaintiffs in this case were not the defendants in that.

The Court: The objection will be sustained.

To which ruling of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Hull: We don't insist on it. Some of the defendants in this bill were the defendants in that suit.

The Court: That would not be material here.

Mr. Drinker: Under the later stages of the case, we are going to raise the question of the relevancy of all of these suits, with the ratification, by the defendants, and ratification by the United Mine Workers, in defending those suits, and sustaining the people who were guilty of those things. Perhaps not at this time, but we will raise that question later on.

Mr. Warrum: Whenever any question of ratification based upon conduct of that kind is raised, we want to be heard.

The Court: Proceed.

Mr. Hull: We understood that the judgment in this case was paid by the Union. I would like to show that he obtained judgment, so that when we put on evidence of the payment of that judgment, we can identify it as the judgment to which he refers.

Mr. Warrum: The [judment] as a matter of fact was not paid by the Union, and we object to any statement of that kind by counsel, especially when there is nothing be-
1737 fore the Court.

The Court: No, I think it is immaterial at this time.

Mr. Hull: That is all.

Mr. Covington: No cross-examination.

(Witness excused.)

1738 JAKE RITCHIE, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name. A. Jake Ritchie.

Q. Where do you live?

A. I live now down on the river, in Crawford County.

Q. What is your occupation at the present time?

A. Farming.

Q. In 1910 what was your occupation?

A. In 1910, I was stable boss for Denman & Bache.

Q. At what mine?

A. At Prairie Crook, for No. 3 and No. mines both,—stable boss at both places. They kept their mules at one barn.

Q. Talk slowly and distinctly, Mr. Ritchie, so that the jury can hear you.

A. I was tending mules for both places, No. 4 and Mammoth Vein. They kept their mules at one stable.

Q. Were you a member of the union?

A. Yes, at that time I was.

Q. Of the United Mine Workers of America? A. Yes.

Q. For how long were you a member?

A. I think for something like a year after I went there as stable boss.

Q. You were working then,—the miners were working then on a union basis, under union conditions?

A. Yes, sir.

Q. Do you remember the time in the spring,—in the last part of March or the first part of April, 1914, when the Bache-Denman Company began operating open shop?

A. Yes, sir.

1739 Q. Just prior to that what had you been doing?

A. I was stable boss there at the time, again.

Q. At what mine?

A. At the same place.

Q. That was while they were operating under union conditions? A. Yes, sir.

Q. What were you doing on the 6th of April, 1914?

A. I was tending to the mules.

Q. Describe now, in your own way, what occurred on the 6th of April, 1914, as you remember it?

A. Let's see,—on the 6th of April, I believe that was on Monday, was it at the time they had the riot there? I don't remember what date it was.

Q. That is the time I refer to?

A. That is the date you speak of?

Q. Yes.

A. I was not at the mine, but I was over at Andrew Beck's, two hundred or three hundred yards away from the mine.

Q. What direction was Andrew Beck's house from the mine? A. Southwest.

Q. Up towards Googoo? A. Yes.

Q. Where the fan house is? A. Yes.

Q. What did you see from there?

A. I saw a crowd of men gathered around there, around the shaft there.

Q. Did anyone come up to see you? A. Yes, sir.

Q. State what ocurred in that connection?

A. They came up there to see me and Andrew Beck.

W. Who was it? A. John Manick and Ves Howard.

Q. Did you know who they were?

A. The fellows that came up to see us?

Q. Yes. A. John Manick and Ves Howard.

1740 Q. Did you know them? A. Yes.

Q. Where did they work?

A. John Manick was working at No. 4 and I think Ves Howard had been working at Mammoth Vein; I know he had just before that.

Q. Were they union men? A. Yes.

Q. What did they say to you?

A. They wanted to know if we had nerve enough to go down and meet that crowd or committee. I believe they said if we had nerve enough to go down and meet the crowd.

Q. What did you do? Did you go with them?

A. We started ahead of them and I think they went up toward googoo eyes.

Q. Did you go down to meet the crowd? A. No, sir.

Q. Why didn't you?

A. We didn't have nerve enough after we started.

Q. What did you see?

A. I saw Elmer Searles running with a crowd after him and they were throwing stones at him.

Q. Where was he running? A. Up towards us.

Q. How big a crowd was after Searles?

A. There was several following him and throwing stones at him.
Q. Where did Searles go, if you know?
A. He went on up to Andrew Beck's at first and then he went from there home.
Q. So you did not go down to see him or meet the crowd?
A. No.
Q. Do you know a man by the name of John Bumpas?
A. Yes.
Q. Do you know where he lived?
A. Yes, he lived then, three or four yards of the shaft.
Q. Did you see him that night, that evening?
A. Yes, sir.
1741 Q. Where did you see him?
A. I saw him at Mr. Looper's when I saw him.
Q. What did he say to you?
A. He came down there and advised me to not stay there that night, that they would come and get me.
Q. What did he say, if anything, about who was sending him to deliver that message to you

Mr. Warrum: The defendants desire and do severally object to this. I do not understand that John Bumpas is a defendants in this case and any conversation that this witness had with citizens around there would not be binding on the defendants.

The Court: I assume everything that transpired there is a part of the res gestae.

Mr. Hull: The next question will indicate the connection.

Mr. Warrum: This was along in the evening.

The Court: I think it will be competent.

Q. Answer the question.
A. I believe he was sent by a committee, or something like that, and he called one fellow's name. I think he said he sent him, but he called one man's name in the crowd.
Q. What was his name A. Scofield.
Q. Do you know who Scofield was?
A. He had been on the pit committee a short time before that. I do not know whether he was at that time or not.
Q. Do you know whether he was the secretary of that local ? A. I cannot say.
Q. You knew he was a union man? A. Yes, sir.
Q. Did you leave there very soon after that?

A. Yes, sir.

1742 Q. Did you see Barnes beaten up?

A. No, sir, I did not see him beaten up, but I saw him after he was beaten up.

Q. Where did you see him?

A. Between the shaft and the boarding house, at the branch washing the blood off of his head, and I told him not to do that, but to come up to the house and wash, because the water in the branch was poisoned from stuff coming out of the pit.

Q. What was the condition of his head at that time?

A. It was gashed and cut pretty bad in a few places.

Q. Where did you go after that time? What did you do that night or when did you leave there?

A. I left there a little before night, before it was dark.

Q. Where did you go?

A. I went to Huntington.

Mr. Hull: I think that is all.

Cross-Examination

By Mr. Covington:

Q. Are you a son-in-law of Mr. Looper, who has just testified? A. Yes, sir.

Q. How long did you live in the neighborhood of the Prairie Creek when this trouble came on?

A. You mean how long I had been living around there?

Q. Yes.

A. Eight or nine years or something like that.

Q. You gave your deposition at Joplin, Missouri, on the 12th day of July, 1917, in this matter, didn't you, Mr. Ritchie? A. Yes, sir.

Q. And you did not mention in your deposition there that visit of Howard and John Menick to you, at all?

A. I did not mention it?

Q. Yes. A. I am pretty sure I did.

Q. You left that out of your deposition, if it is not in

1743 here, didn't you?

A. I dont know what was left out of the deposition; I cant say how they fixed it up.

Q. What Scofield are you talking about when you talked about Scofield? A. Frank Scofield.

Q. Where does he live?

A. He lived there somewheres around close. I dont know at just what house he was staying.

Q. You say you saw him there? A. Yes.

Q. How far away was Scofield when you say John Bumpas was talking to you?

A. The crowd Scofield was at was two or three hundred yards from where I was at where Bumpas was talking to me.
Q. In the road or out in the woods?
A. We were close to the road.
Q. Were you close to the roads in the woods
A. No,—well, I believe there were a tree or two there.
Q. How close does the public road run to Mine No. 4?
A. I guess it is a quarter or something like that.
Q. Is it that far? A. I think so.
Q. The Huntington road coming away from the Prairie school house goes in that direction,—
A. (interrupting). Why, that road,—it is about two or three hundred yards.
Q. It is not over 150 yards, is it?
A. I believe it is, I am not sure. I would think it was further than that.
Q. Who was with Scofield in the road there?
A. I could not call their names now. I know their faces. They lived around there.
Q. You had been there seven or eight years?
A. Yes.
Q. Were you personally acquainted with Scofield?
A. Yes, sir, I had seen him several different times.
1744 Q. What was it that Bumpas said to you when he came down?
A. Why, he advised me not to stay there, that he was sent down by a committee, or some such words as that,—not to stay there that night.
Q. Now, Mr. Ritchie, didn't Bumpas pass along there and stop? A. No, sir.
Q. And in the discussion of the matter you asked him,—
A. (interrupting). No, sir, he didn't.
Q. Wait until I finish my question; and didn't you ask him if he thought there was any danger of your remaining there?
A. No, sir.
Q. And he told you he did not think there was any danger, isn't that right?
A. If it had been that way, I would have told it that way a while ago.
Q. Yes, I know you would, but I am asking you the question. A. No, sir, he didn't.
Q. Now, John Bumpas is an old man 65 or 70 years old, isn't he? A. He is something like 60 or maybe 65.
Q. And had lived in that neighborhood 35 years?
A. I could not say.
Q. He was there when you went there, wasn't he?
A. Yes, sir.

Q. And owned a little mine there adjoining the mine?
A. No, sir, not that anyone knows of.
Q. Well, he cultivates land?
A. Yes, sir, he has got a farm leased, but don't own the farm.
Q. He don't own his own home?
A. No, sir, he didn't at that time. I [couldn] not say now.
Q. How do you know he didn't?
A. He always said he didn't. He didn't claim he did.
1745 Q. He raised his family there?
A. He had been living there in that house before two or three years.
Q. And all those years you have never known him to be charged with anything, have you?
A. I never knew of anything being charged bad against him that I can speak of.
Q. And he did not belong to the union at all and never did?
A. Not that I know of, he didn't.
Q. And he made a living for his family out on the farm?
A. He farmed; he was a farmer.
Q. On the evening of the occurrence you related on the 6th of April, 1914, was there any property destroyed of any description whatever at Mine No. 4?
A. Not that I know of, more than the whistle blew there. I don't know that they destroyed anything, I could not say that they did.
Q. Did the blowing of the whistle tear up anything?
A. I could not say that it did.
Q. It didn't destroy anything, did it?
A. Not that I know of.
Q. They hoisted a union flag up on the tipple, too?
A. I don't remember, I could not say whether they did or not.
Q. You were there most of the afternoon, weren't you?
A. Yes, sir.
Q. Now, when you left there you say you went over to Huntington? A. Yes, sir.
Q. You went right into the midst of a mining district when you got over there, didn't you?
A. Why, there were some miners over there, yes.
Q. You were afraid over at Prairie Creek of the miners, but you went right among them to spend the night; that is all.

Redirect Examination

1746 By Mr. Hull:
Q. By way of refreshing your recollection, Mr. Ritchie, I will ask you whether, in connection with the question that

asked you, as to whether you did not fail to state, at your Joplin]deposiition[, about John Menick, and Ves Howard, if you were asked this question, "Q. I wish you would describe in your own way all that you know about the things that took place on that morning beginning at the time you saw the people beginning to assemble", and if you were asked that question, if your answer was not as follows, "A. Why, they met at the school house and was there quite a while and then came on down to No. 4 and stayed around the boarding house and John Menick and Ves Howard came up and asked if we had nerve enough to go down and meet the committee, that they were sent up there by the committee and wantd to know if we had nerve to go down there". Did you make that reply?

A. Yes.

Mr. Hull: That is all.

Mr. Covington: Stand aside.

Witness excuesd.

1747 S. P. McLAUGHLIN, called as a witness on behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name. A. S. P. McLaughlin.
Q. What is your business?
A. Dealer in real estate and scrip broker.
Q. Speak up so that the court can hear you and the last man on the jury over there can hear you.

Mr. Warrum: And including counsel for defendants.

Mr. Hull: Yes, including counsel for defendans.

Q. Where do you live? A. I live here in the city.
Q. How long have you lived here? A. Thirty years.
Q. In Ft. Smith?
A. Well, I lived one year at McAlester.
Q. Did you in the spring of 1914 in March or April go down to Prairie Creek Mine No. 4? A. Yes, sir.
Q. In what capacity?
A. I went down there at night watchman for the Prairie Creek Coal Company.
Q. Under whose orders did you go?
A. Mr. Cameron, I believe, was the man who sent me.
Q. Were you to guard at night? A. Yes, sir.
Q. What time did you go down there?

A. Late in the evening. It was getting dark when I got there.

Q. On what date? A. It was on Saturday.

Q. Can you place the date?

A. No, sir, I cannot, only by what I heard since I came in the court.

Q. If the riot, so called, was on April 6, and was on a Monday, was this the Saturday before?

1748 A. Yes, sir, it would be April 4th.

Q. Now state what occurred, if anything, on Sunday morning?

A. Well, I went up to the depot on Sunday morning.

Q. To what station?

A. Prairie Creek station there to make inquiry about Goddard's overcoat; he had left it on the train the night before.

Q. Who was Goddard?

A. A guard that went down with me. And when I got up to the depot parties began to gather around talking to me, Clint Burris, I knew him.

Q. Where had you known him?

A. He was in jail over at the county jail, night jailer over there.

Q. How long ago?

A. A year or two,—two or three years.

Q. Did Clint say anything to you at that time?

A. Yes, he made himself known to me. At first I did not recognize him.

Q. What did he say?

A. He said he knew me when I was a guard when he was in jail at Ft. Smith.

Q. Did he say anything more to you?

A. Yes, he asked me if I was down there to guard, and he said I was too good a man to guard scabs. And the crowd began to gather around and Bill Johnson began to talk. I did not know him until I asked him his name. They advised me I had better leave, that if I stayed there I would get hurt.

Q. Who said you would get hurt if you stayed there?

A. Both of them. They talked it around about with me. And when I went down on Saturday evening I had an understanding with Mr. Cameron I would come back on Monday. I had business in court over here and also I wanted to move. So I told the boys, and a right smart crowd got around me and it was out of humor and I heard threats, and I told the

1749 men I was coming in the next morning, which was the truth. And Johnson says to me, "Why don't you go in this morning?" I said, "My overcoat is over at the hotel, I will go in in the morning." He said, "You have time to get

your overcoat if you want to go in this morning." The crowd was gathering around and got worse in their talk, and I said, I would see if I could get my overcoat, and I went to the hotel and got away that morning. Monday morning, when I went over there, part of the same crowd was there. Burris and Johnson was there and they told me they was glad I was going in, because there was going to be trouble and I would get hurt if I stayed.

Q. That was Monday?

A. Yes, that was Monday. And I said to the men, "I think it would be to your interest to protect the property." They said it didn't make any difference, they should not operate the mines unless they signed up, under any consideration.

Q. Did you ever go back to the mine after that time?

A. No, sir.

Mr. Hull: That is all.

Cross-Examination.

By Mr. Covington:

Q. How many times have you testified with reference to this thing? A. Once, I think.

Q. Once before; and you did not say a thing on earth in your testimony then about what was said to you on Monday morning, did you? A. I don't remember what I did testify to.

Q. You did not say a word about that, did you, and you were asked specifically if anything was said about it?

A. If that was asked me, I testified as I have here, because those are the facts in the case.

1750 Q. To the best of your recollection? A. Yes.

Q. Is that what you mean? A. Yes.

Q. What kind of business did you say you were in?

A. Scrip broker and real estate.

Q. Scrip broker? A. Yes.

Q. What kind of business were you in when you went down to Prairie Creek?

A. The same business. I got mashed in the mine several years ago, and that is the kind of business I have followed since, timber contracts.

Q. You got what?

A. Mashed in the mine at Jenny Lind.

Q. What connection has that with this case?

A. Well, that is the business I have been following ever since.

Q. You have been following it ever since then? A. Yes.

Q. Were you working in the mines? A. Yes, I was.

Q. Union or non-union? A. Non-union.

Q. Your job has been for several years going around guarding at various places working non-union, hasn't it, Mr. McLaughlin?

A. I don't know that it has been my job. I have done some work of that kind.

Q. You are kind of an expert; you put yourself up as such and represent yourself as to that particular class of operators that you are an expert in carrying out orders and directions of the companies that desire to operate on a non-union basis, aren't you? A. I don't know that I do.

Q. Isn't it a fact that you do? A. How is that?

Q. Isn't it a fact that you do do that?

A. Yes, I have night watched.

Q. Don't you tell them of your ability to do those things?

A. I have night watched at different places.

1751 Q. You also tell them what a bad man you are and how fearful everybody is of you?

A. No, sir, I don't know anybody is afraid of me.

Q. Isnt that the way you got Mr. Cameron to employ you, by telling him that?

A. No, sir, that is not the way. The chief of police came to me and told me to go and see him, that Mr. Cameron told him to send them men down there.

Q. Who asked him to send some men?

A. The chief of police.

Q. Who was the chief of police at that time?

A. Sid Johnson.

Q. Sid Johnson? A. Yes, sir.

Q. Did Sid Johnson go with you?

A. I don't remember whether he did or not.

Q. Who did go with you? A. I think I went by myself.

Q. Did you furnish your own gun or were you furnished with guns by the coal company? A. There was a gun there.

Q. A gun where? A. At the mines.

Q. You were supplied with a gun at the mines? A. Yes.

Q. How many guns were placed at your disposal?

A. One.

Q. What kind? A. It was a Winchester.

Q. Was it a 32 or a 38?

A. I don't remember that; I think maybe it was a 38.

Q. A high powered gun, what is called a high power rifle?

A. No, I don't believe it was the kind they have now. I think it was the old model.

Q. How many others were there at that time?

A. I don't know. There was some four or five of us there the two nights I was there.

Q. Four or five? A. Yes.

Q. They had how many shifts?
1752 A. They had two shifts, one day and one night.
Q. One day shift and one night shift? A. Yes.
Q. And you were on at night?
A. Yes, I was on at night.
Q. You had how many men with you?
A. There were four or five of us at night.
Q. Who was captain of the night guard?
A. I had charge of the night guard.
Q. Who had charge of the day guard?
A. A man by the name of Barnes, I think.
Q. He was a Burns detective, wasn't he? A. I reckon so.
Q. Did all of the Burns men work in the day time or part work in the day time and part at night?
A. There were some strangers there and I think one or two of them were Burns men.
Q. Did they work day time or night?
A. Two strangers were there that came from Kansas City, they told me that night.
Q. Who were on night guards with you? Name them.
A. I don't know their names; they were strangers to me.
Q. Was J. L. Prince there at that time?
A. I don't know; he might have been.
Q. You know him, don't you? A. No, sir.
Q. You went down on Saturday afternoon?
A. I went down late Saturday evening.
Q. You went direct to the mine?
A. I went to the boarding house first and had supper and then I went over to the tipple.
Q. You were not bothered by anyone, were you?
A. No, sir.
Q. Aside from what you have stated? A. No.
Q. Where were you on the 6th of April?
A. That was on Monday morning; I came home on the early train.
Q. You came home Monday morning? A. Yes.

Mr. Covington: That is all.

1753 Redirect Examination

By Mr. Hull:

Q. You served at various times as deputy United States Marshal? A. I worked eight years straight.
Q. Did you serve as deputy constable in Ft. Smith?
A. Yes, sir.

Mr. Hull: That is all.

Recross Examination

By Mr. Covington:

Q. Those are not the only things you have done, are they?

A. No, I have worked at different occupations.

Q. When were you United States Marshal?

A. I worked for the Western District of Arkansas.

Q. Under whom?

A. Under Captain Carroll thirty years ago, and when he went out I worked under Col. Yost, and some under Col. Kumpf, and a little under Stall.

Q. When you went out of that work, what did you first do?

A. I was in the Indian Territory courts under Col. McAlester.

Q. That was in the wild days when they needed bad men for the companies? A. I don't know that it was so wild.

Q. Are you classed as one of the old marshals of Indian Territory? A. Yes.

Q. Are you the same Price McLaughlin that collected some money in order to send a man by the name of Sams to Washington a while ago and kept the money? A. No, sir.

Q. What Price McLaughlin is that?

A. I didn't know anything of that kind was done.

Q. You didn't collect some money to send old man Sams to Washington and keep it?

A. No, sir, he got the money and said there was not
1754 enough for him to go, that he would have to have a coat, shoes and so forth.

Q. When did you pay it over to him?

A. When the association met and they voted what to do with it.

Q. You paid it to him when the grand jury convened, didn't you? A. No, sir, I paid it over to him before.

Q. Just a day or two before?

A. No, sir, long before that.

Witness excused.

1755 Bob Bly, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name. A. Bob Bly.

Q. Are you a native of this part of the country?

A. Yes, sir.

Q. How long have you lived here?
A. Something like thirteen years.
Q. What is your business? A. A coal digger.
Q. Where are you working now?
A. At Jamestown.
Q. How long have you worked at Jamestown?
A. Something like six years.
Q. Did you in April or May of 1914 go to work for the Bache-Denman Coal Company? A. Yes, sir.
Q. At Prairie Creek No. 4? A. Yes, sir.
Q. What was your business? What were you to do at that time?
A. Well, I first done rough work around there, cleaned up, and they put me to guarding.
Q. Did you guard in the day time or in the night time?
A. At night.
Q. How long were you there before you went home on account of sickness?
A. Oh, something like three weeks.
Q. Then, did you go back there in July?
A. Yes, sir, right at the last of June or the first of July.
Q. Do you remember the time of the big battle down there, what is called the battle of July 17th?
A. No, sir, I was at home.
Q. You remember that time?
A. Yes, I remember that time.
1756 Q. State what occurred three or four days before that battle with reference to someone coming and seeing you at the mine?
A. Jim Meeks, and Arthur Cooper came and called me out.
Q. From where?
A. From the bunk house where I was asleep.
Q. Who were those men?
A. Jim Meeks and Arthur Cooper.
Q. Were they some relation of yours?
A. Yes, sir, brothers-in-law. I married a Cooper and Jim Meeks married a Cooper.
Q. Were they union men? A. Yes.
Q. Where did they work?
A. I don't know where Arthur worked, but Jim Meeks worked in ....., Oklahoma.
Q. Well, they called you out of the mines, where did you go?
A. I went out of the mines, something like 200 yards out south.
Q. What did they say to you?

A. They came to tell me they were looking for trouble most any time,—right away.

Q. What else did they say to you?

Mr. Warrum: If the court please, the defendants again desire to separately object to any conversation this man had that night or afternoon with Jim Meeks or Arthur Cooper, neither of them being defendants in this case, and these conversations are not part of the res gestae, not binding on these defendants.

The Court: The objection is overruled. The court holds that all that occurred is part of the res gestae. If the defendants were not connected with it, it is their good fortune if they were not connected up.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Q. Did they say anything else to you about what was going to happen there ?

1757 A. No, nothing more than they said there would be trouble and for me to go home.

Q. What did they say you could look for?

Mr. Warrum: If the court please, this man so far is not an unwilling witness and we object to the question as leading and suggestive and an attempt to suggest things.

The Court: The objection is sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Q. As a result of what was said to you by Jim Meeks and Arthur Cooper, what did you do? A. I went home.

Q. And how long before the battle was that?

A. Well, I could not tell. That was some,—I guess,—five or six days.

Mr. Hull. That is all.

Cross-Examination

By Mr. Covington:

Q. When did you go to Prairie Creek, Mr. Bly?

A. Sometime in April.

Q. In April? A. Yes, sir.

Q. The latter part of April?

A. Yes, sir, somewheres along about then, I could not tell you just when it was. I don't recall the date.

Q. You had been work at Jamestown, Johnson County, Arkansas? A. Yes, sir.

Q. How far is that from the coal field of Spadra?
A. It is about three miles, I guess.
Q. On the same line of railroad?
A. Yes, sir, on the Iron Mountain.
Q. Is it a union or non-union mine?
A. It was non-union.
1758 Q. Operated by the Pennsylvania Mining Company?
A. Yes, sir.
Q. How long had you worked at that non-union mine?
A. Something like six years, or maybe a little over.
Q. They had been running there for six years?
A. Yes, sir. I worked at it about that long. They hadn't at that time.
Q. They had been working there with non-union labor for six years, hadn't they, Bob?
A. Yes, they now have gone on the union basis.
Q. But they have now gone on the union basis?
A. Yes.
Q. And you are now working union? A. Yes, sir.
Q. The non-union men struck down there and organized themselves, didn't they? A. Well, I could not tell.
Q. You were there, weren't you?
A. Yes, sir, I lived there.
Q. That is a fact, isn't it? A. Which?
Q. That the men in their employ came out on strike claiming they were taking about half of the coal they dug by running it over the screen?
A. I quit along there about that time. They were running over the screen.
Q. You quit because they would not pay you?
A. Yes.
Q. Did you have a gun when you went down to Prairie Creek? A. Yes, sir.
Q. Who furnished it to you? A. The company.
Q. Who? A. The company.
Q. The company? A. Yes, sir.
Q. Who hired you to go down there? A. John Trigg.
Q. Who? A. John Trigg.
Q. He is a brother-in-law of Franklin Bache, isn't he?
A. Well, I could not tell.
1759 Q. This man Meeks you referred to, he was an employe of the Pennsylvania Mining Company for a long period of time? A. Yes, sir.
Q. And had only left its employ a few days before he came over to Prairie Creek to advise you about the situation there, isn't that true?
A. Well, I don't understand it the way you speak.

Q. I say, he was a non-union miner, Meeks was; this man Meeks you referred to? A. Well, I don't know.
Q. He was a brother-in-law of yours, wasn't he?
A. Yes, sir, but I had not seen him for a right smart time. You mean Prairie Creek?
Q. No, down there?
A. Yes, he was non-union, a non-union man down there.
Q. And he had not been away from here but a little while when you had this conversation with him?
A. No, sir, he had not been away long, as well as I recollect.
Q. Who was the other man? A. Arthur Cooper.
Q. Was he from the Pennsylvania Mining Company, too?
A. No, sir, he was from Oklahoma,—Gowan.
Q. What was the capacity of the Pennsylvania Mining Company? I mean the production?

Mr. McDonough: I do not see the relevancy of that. I object to it.

The Court: The objection is sustained.

Mr. Covington: They have gone into the general business.

The Court: He has not testified that he knew anything about the general business.

Mr. Covington: I undertsand that, but that is what I want to make inquiry about.

1760 The Court: It is not competent on cross-examination.

Mr. Covington: We propose to show by the witness that he worked there for six years, and the daily output was 500 tons per day, and they never had any trouble at that place, and he was within three miles of the union district.

The Court: That does not make any difference. That does not justify them in burning the property up or destroying it.

Mr. Covington: I introduced for this purpose, the charge that we had a hand in the destruction of all these properties and it would at least tend to show the charge was unfounded.

The Court: They did not destroy this property, and I don't think that would be relevant. The objection is sustained.

Mr. Covington: We except.

The Court: When it comes down to the destruction of property, this witness is not competent to say what the operations or conduct of the company was with reference to any other mine, and of course he could not be cross-examined as to it, as to its production or anything else. The only question is the legitimate cross-examination of this witness.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Redirect Examination

By Mr. Hull:

Q. What is your first name? A. Bob.

Q. You have known Senator Covington for some time?

A. Yes, sir.

Mr. Hull: That is all.

Witness excused.

1761 W. P. UPTON, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. What is your full name?

A. Well, my initials is W. P. Some calls me Will, some William, and some Bill, first one thing and then another. William you might say my name is.

Q. What is your occupation? A. Farming.

Q. Have you been a farmer practically all of your life?

A. Yes, sir, all except eight years of my life I farmed. I farmed all my life except eight years that I mined.

Q. When did you do that mining?

A. Well, several years ago.

Q. In July, 1914, were you working for the Bache-Denman Coal Company?

A. Yes, sir, I worked some for them. Yes, sir.

Q. You left there, I believe, after you had been there a few days on account of sickness? A. Yes, sir.

Q. I just want to place that date. On your way back, do you remember what day of the month or week it was you went back to the mine in July?

A. I believe it was on Monday, I am not sure, but I believe it was on Monday.

Q. How long before what we call the battle of July 17th was that?

A. To the best of my recollection it must have been about four days, or something like that.

Q. If the battle was on Friday and this Monday, it was the Monday preceding the battle?

A. Yes, sir, I think that is right.

Q. You went down there on the train from Ft. Smith?

A. Yes, sir.

1762 Q. State what occurred on that train?

A. Well, about the first thing that occurred was down here at the depot there was a man came to me and I reckon he must have seen me buy my ticket and where to, and he asked me where I was going and I told him.

Q. Did you know his name?

A. No, sir, but I heard another man tell his name.

Q. You cannot tell what any other man told you.

A. There was another fellow,—

Q. (interrupting). State what he said to you.

A. Well, he said, "My friend, I advise you,—"

Mr Warrum (interrupting): Notwithstanding counsel's admonition of the witness, he is still asking the witness what this man said, and I object to it for the reason it is hearsay.

The Court: The objection is sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Hull: I want to state what we expect to prove, not going into detail. We allege in our complaint that these defendants and those co-operating and conspiring with them, kept us from employing men and not only drove them away but intimidated them on their way to the mines.

The Court: Do you expect to follow this up with any proof that will connect this man with the defendants?

Mr. Hull: We will show,—unfortunately, we did the best we could in getting the witnesses here in the order we want to make the proof. We expect to show that this man was a member of the union that said this to him. If the court feels we ought to put him on first we will have to do so. He comes Thursday or Friday in our list of witnesses.

1763 The Court: With the statement of counsel that they expect to follow this up by showing the connection of this man with the union, this man that made this remark, the court thinks it will be competent and you may go on with the understanding that if proper foundation is not laid it will be stricken out.

Mr. Hull: We understand that.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Q. What did this man say to you?
A. He asked me where I was going, and I told him, and he said, "My friend, I would advise you to stay away from there. There is trouble there." He says, to the best of my recollection, "It is just a few days before we are going to clean that place." And by some means or other he found I was an Odd Fellow and an A. O. U. W. and he said, "Brothers, if you are there when we undertake this job you are as liable to get hurt as anybody and we don't want to hurt you, and I advise you to stay away." I believe that is all what he said.
Q. At Greenwood do you remember anybody getting on the train there or not?
A. Yes, sir, quite a bunch got on there.
Q. What occurred after the train left Greenwood, if anything?
A. Several of them came to me and one or two sat down, one sat in the seat with me, and one sat on the arm of the seat, and asked me where I was going and I told them and they commenced then advising me to stay away and made about the same remark the other fellow had made. They said, "We don't want to hurt you, and if you are there when we strike this job, we are as likely to kill you as anybody, and we don't want to do that. Don't get off this train at that station."
1764 Q. Where were you going to get off?
A. I was going to get off at a switch, I believe it was right this side of the mine.
Q. You had been engaged to go to work at the mine?
A. Yes, sir.
Q. How many other employes were going down on that train at the same time? A. With me?
Q. Yes? A. Five of us.
Q. What had you been engaged to do?
A. I was employed there as a kind of top boss, at the night, to see that the fireman kept steam and the engineerman hoisted water into the water box.
Q. Did you get off at the mine that night?
A. No, sir, I did not.
Q. Did anybody get off?
A. Yes, sir, there was one,—not right there. One boy that was with us got off at the station, a little west from there.

Q. What is his name? A. Morris.
Q. How many did not get off? A. Maybe four others.
Q. Who paid your fare into Hartford?
A. Some of the union men. I don't know who, some of them.
Q. Did you hear this same man that had spoken to you in the depot at Ft. Smith talk to one of the employes with you named Sam Smith, after you got to the station at Hartford?
A. No, sir, I don't think it was that man that talked to Sam. It was a bunch of men. I didn't know who any of them were, as far as that was concerned. They bunched up around us and they recognized Smith. He had been there once before.
Q. That is, Sam Smith, one of the employes?
A. Yes, sir, they recognized him and advised him not to go to work over there.
Q. Do you know what he did?
A. They took us to the hotel and put us up there, and
1765 Smith stayed until about three o'clock that morning and the following morning got up and left.
Q. What did the rest of you do?
A. We stayed there until morning, and they gave us breakfast, and then we went on to the depot at Hartford.
Q. How did you get out of town? A. I walked out.
Q. How far did you walk?
A. I walked from there to Jansen up here, I believe is the station I got on.
Q. How far is that from Hartford, do you know? A. No.
Q. Were Lee Rogers and two or three other employes with you?
A. Yes, sir, Lee Rogers and a man by the name of,—if I can think of his name now,—I can't think of his name now, but they were there, and a man by the name of Rogers and a fellow by the name of Jim Burks, and his brother, but I don't remember his brother's name, and another young fellow, I disremember his name now. I was not real acquainted with Burks and the other fellow and I disremember the other fellow's name.

Mr. Hull: That is all.

Cross-Examination

By Mr. Covington:
Q. What day was it you came out of Hartford?
A. On Tuesday.
Q. When? A. On Tuesday.
Q. Tuesday? A. Yes, sir.

Q. So you don't know who you talked to on the road over there?

A. No, sir, I didn't recognize any of the men, Mr. Covington. I didn't know any of them.

Q. You had never met them before? A. No, sir.

Q. You never met them since?

A. No, sir, not that I know of.

1766 Q. Now, who was the man you referred to a moment ago? A. Who was he?

Q. Yes.

A. Well, I don't know, only what I was told.

Q. Well, I know, but what was the name of the fellow who told you?

A. His name was Smith, I was told.

Q. You were told that a man named Smith told you?

A. Yes, sir, the man that was talking to me down in the depot.

Q. You dont know whether it was Smith or not?

A. No, sir, I dont know anything except what I was told.

Q. Now, who were the men that made the statements on the train going down to Greenwood?

A. I could not tell you.

Q. You did not know them?

A. No, sir, I did not know them.

Q. What was your particular job at the Bache-Denman mine?

A. Well, I was employed there as a kind of top boss at night.

Q. What were you duties there?

A. To see that the fireman kept steam and that the engineer man hoisted water.

Q. Well now, you were given a gun, were you, when you got down there? A. Yes, sir, I had a gun.

Q. What? A. Yes, sir, I had a gun.

Q. To see that the fireman kept fire in the boilers and that the engineer hoister water?

A. I reckon so, I dont know what else.

Mr. Covington: That is all.

Witness excused.

1767 WILLIAM WILLETT, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your name? A. Will Willett.

Q. What is your occupation? A. Miner.
Q. Have you mined practically all of your life?
A. Yes, sir.
Q. You have been in the army, too?
A. Yes, sir.
Q. When were you in the regular army?
A. In 1904. I was discharged in 1907,—three years.
Q. Where were you born and raised?
A. I was born and raised in Clarksville, Arkansas, Johnson County.
Q. Did you know in 1914 a man by the name of Jim Lackland? A. Yes.
Q. Did he get you to come to work for the Bache-Denman Company? A. Yes.
Q. What were your duties?
A. To guard property.
Q. When did you go down to Prairie Creek No. 4?
A. The 9th of July.
Q. And you went to work on that day as a guard?
A. Yes, sir.
Q. Were you given a gun? A. Yes, sir.
Q. By whom?
A. The United States Marshal suggested I should have a gun and go to work.
Q. Do you remember that marshal's name?
A. No, sir, I do not.

Cross-Examination

By Mr. Warrum:

Q. How long did you work there?
1768 A. From the 9th of July until the 17th.
Q. You were one of the guards that shot up Frogtown on the Sunday before the 17th? A. No, sir.
Q. You were not one of those that shot up that town?
A. No, sir.

Mr. Hull: Did you know anything about the shooting up of Frogtown, Mr. Willett?

A. No, sir.
Q. Do you know that any guard shot up Frogtown on the night of July 17th? A. No, sir.
Q. Or any other time? A. No, sir.

By Mr. Warrum:

Q. Were you on duty day time or night time?
A. Night duty.
Q. Do you remember the circumstance of the guards sitting up, those that were on day duty, as well as those on night duty, sitting up the night of the Sunday preceding the

17th of July and discussing the shooting up of Frogtown and joking and laughing about it? A. No, sir.

Q. Were you at the headquarters where the guards congregated? A. No, sir.

Q. Where were you?

A. I was on the railroad,—the switch that runs into the mine. There was some dirt there they had there to make a levee and I was sitting on that.

Q. Do you know where Frogtown is?

A. No, sir, I dont know. I have heard about it, but never was there.

Q. Did you hear shots fired that night?

A. No, sir.

By Mr. Hull:

Q. Were you stationed at this particular levee that night?

A. Yes, sir, that was my place.

Witness Excused.

1769 MRS. W. H. ARGO, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name? A. Mrs. William H. Argo.

Q. You are the wife of William Argo who works for the Bache-Denman Company as a bookkeeper? A. Yes, sir.

Q. Do you remember, Mrs. Argo, the time of the so called riot of April 6th, at Prairie Creek No. 4?

A. Yes, sir.

Q. Where were you that day?

A. I was in Ft. Smtih until late in the evening and I returned to Midland and when I got to the station the Huntington band was there, and in going over I heard the rumors of the riot, and Mr. Cameron, the superintendent of the mine,—I went over to inquire about Mr. Argo, and he said,—

Q. (interrupting). Never mind what he said. Now, either the next day after the riot or a couple of days after that, you an dyour hosband being at home, did a man by the name of Gywn come to your house?

A. Yes, sir, he came to our back gate.

Q. State in your own way exactly what occurred at that time.

A. There was a crowd of miners of about 10 or 15,—I dont remember, one was Jim Priddy, he was in the crowd, and they were about 10 of them that came to the front gate

and Mr. Gywn went around to the back gate and called Mr. Argo around there and he said, "As a friend of yours I wouldnt want to harm you, but there is men that will kill you, and I advise you and your wife to move".

Q. Do you remember anyone except Jim Priddy that was in that crowd? A. No, sir.

1770 Q. Do you know whether Mr. Gywn worked at Mine No. 1? A. Yes, sir.

Q. That is a Bache-Denman mine?

A. Yes, sir.

Q. And he was a union man?

A. Yes, sir, he had been secretary and treasurer of the union, of local 2110, I believe as I remember.

Q. Did you leave there soon after that? A. Yes, sir.

Q. When did you leave?

A. We left in about three days afterwards,—not longer than a week afterwards, about three days later.

Q. And did you ever go back there again?

A. No, sir, I went to Oklahoma and Mr. Argo never went back.

Mr. Hull: That is all.

Cross-Examination

By Mr. Warrum:

Q. Who was it told your husband that?

A. W. J. Gywn.

Q. Is that Quinn or Guinn? A. It is Gywn.

Q. He was a member of one of the local unions there?

A. Yes, sir, he had been secretary and treasurer.

Q. And he was a friend of your husband's?

A. That is what he said.

Mr. Warrum: That is all.

Witness Excused.

1771 William Henry Argo, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name?

A. William Henry Argo.

Q. What is your business? A. Bookkeeper.

Q. You are a bookkeeper? A. Yes, sir.

Q. Talk up, Mr. Argo so that the jury can hear you.

A. Bookkeeper and office man.

Q. Were you in 1914 bookkeeper for the Bache-Denman Coal Company? A. Yes, sir.
Q. How long had you been in that work for them?
A. From 1910 until that time, something like four years.
Q. Where were you employed, at what mine
A. Mammoth Vein No. 1.
Q. For how long?
A. About three years, a little over three years, something like three years.
Q. Were you at No. 4 working in the office at No. 4 on April 6th, 1914? A. Yes, sir.
Q. State what occurred on that day, as well as you can remember it, in your own way.
A. Well, sometime in the afternoon,—sometime during the day I saw crowds coming from Hartford, and I saw crowds coming from Huntington, and occasionally a number coming down to the office and back where I was working.
Q. About how many were there in that crowd?
A. About 500 from Hartford, and an equal amount of Huntington, or in the direction of Huntington.
Q. Did you see a band? A. Yes, sir.
Q. Where did they come from, if you know?
1772 [A. I saw a boy,]
A. I saw a boy, a young man coming down to the office dressed in a band uniform; he didn't have no band, but he was dressed in a band uniform, and walked up to me.
Q. What time was that?
A. That was sometime in the afternoon, I think.
Q. Did he say anything to you? A. Yes, sir.
Q. What did he say?
A. He said that there would be a crowd down there after a while to tear the tipple down and carry it to Huntington with them.
Q. Do you remember a committee coming to the mine?
A. Yes, sir.
Q. Who was on that committee?
A. John Manick and Ves Howard and Jim Slankard, a constable at Hartford.
Q. What position did he hold?
A. Constable at Hartford.
Q. Did you know John Menick and Ves Howard were?
A. They were on the same committee. Ves Howard had formerly worked at No. 1 and Menick at No. 1.
Q. When they were running union? A. Yes, sir.
Q. Did this committee come to the office? A. Yes, sir.
Q. Were you in the office? A. Yes.
Q. State what they said.

A. I could not tell all they said. It was kind of confusion around there. There was a crowd around there, but they came in to talk to the superintendent, Mr. Cameron.

Q. Who was spokesman for them?

A. Mr. Howard mostly.

Q. Who was in the office at the time?

A. Mr. Gully, Mr. John Patterson and the old gentleman Patterson, his father, and Mr. Thresher, and myself.

Q. Was a man by the name of Hackett there?

A. Mr. Gully was there a part of the time and Mr. Moore a part of the time.

1773 Q. Was a man by the name of Hackett there?

A. Yes.

Q. What did Mr. Moore say?

A. I could not tell what he said, there was too much confusion.

Q. Could you tell what the committee said, what the upshot of their conversation was, what they were talking about to Mr. Cameron?

A. No, sir, I dont remember exactly.

Q. Do you remember what they said they wanted to do?

A. They wanted to close down the mine is all I could understand they came in there for.

Q. What was going on on the outside when this conference with the committee was going on?

A. There was a very large crowd all around the office and all around there. And there was some fighting going on on the outside with the guards guarding the property.

Q. Did you see someone come up to the window of the office that you knew?

A. Yes, sir, lots of them were there.

Q. Some that you know? A. Yes, sir.

Q. Who were they?

A. Well, I saw a lady, Mrs. Gywn. She came up there to the office, and hollered in at us, "There is a bunch of scabs in there". And there were several more around there I saw.

Q. State to the jury all you have a personal recollection of having seen on that day?

A. I saw John Menick and Ves Howard and Fred Todenhauffer and Mr. Fitzgerald and his son, and I saw Mr. A. O. Brook there, of the bank of Hartford, and Joe Overman of the Midland, and there were several people there.

Q. Speak louder, Mr. Argo.

A. There were several poeple I knew. I could not call all their names. In just a minute I will tell you some more. I have to stop and study about it. I saw Mr. Hunter,

George Hunter, I believe his name, and Joe Nick; and I saw some more, but I dont remember their names, that I knew.

1774 Q. What did you see, if you saw anything, of a crowd at the boiler room?

A. I saw them there, they were all out around the engine room and the boiler room, and I heard the whistle blowing out there, and saw a big crowd around the engine room and boiler room.

Q. Did you see Looper and Sylsberry at any time?

A. During the day they were out there; yes, sir, I seen them.

Q. Did you see them after they were beaten up?

A. Yes, sir.

Q. In what condition did you find them?

A. They seemed to be very much injured; they was groaning and taking on and bloody.

Q. Did you know the fireman, Elmer Searles?

A. Yes, sir.

Q. What did you see him doing?

A. I seen him running with a crowd after him.

Q. Speak so the jury can hear you.

A. A crowd was after him from the boiler room.

Q. What was the crowd doing?

A. I don't know, I just saw him running from No. 4 tipple, when he came out of the boiler room, running that way.

Q. Was the crowd running the same way he was or away from him?

A. The same way he was, the few that I saw. There were so many people you couldn't see so very many people running after him, but I saw a crowd of five or six.

Q. Did you see anything of [—] when Jim Slankard made a speech to the crowd? A. Yes, sir.

Q. Can you tell about that?

A. It seems like he was standing up on something above the crowd, and he was standing up with a handkerchief, [waiving] it, and with a gun in his hand that he had taken off of some of the guards, I guess.

Q. What did he say?

1775 A. I can't tell you exactly what he said, I don't remember.

Q. Do you know what the crowd did after he made that speech?

A. They rushed in there and [beaten] up those fellows. Mr. Bailey I believe his name is, he was all beaten up. I helped pull him in the office.

Q. With reference to the speech that Jim Slankard made from the platform, what did the crowd do then?

A. I don't know what they done. They were around there for awhile after he made the speech, and all I know is that those fellows were beaten up, about the time that he got the gun.

Q. Now, a few days preceding the riot, go back for a moment, Mr. Argo, did you have some conversation with a man named Reed? A. Yes, sir.

Q. Who was he?

A. That was Speck Reed,—I believe they call him, his given name was John Reed.

Q. Do you know where he had worked?

A. He had worked with us at No. 1 Mine.

Q. Mammoth Vein No. 1? A. Yes, sir.

Q. Had he worked as a Union man?

A. Yes, sir, he asked me if the company was going to run an open shop mine, and I told him I didn't know anything about it, I was at No. 1, and I had not heard anything about it before that, and he said if they did, it was going to be like it was at Denny, if they did, they would not last longer than Pat stayed in the army; that was the words he used.

Q. Now, some days after the riot, Mr. Argo, did you have some trouble with Jim McNamara at Hartford?

A. Yes, sir, I received some trouble there.

Q. When was that?

A. That was about the 19th of April.

Q. Can you tell in your own words what happened, and what it was?

1776 A. I went from here, at Fort Smith, down to see about my household goods that were in the house down there, and I just passed by, and I heard the store had burned down there, and I didn't know whether my house had burned or not, and I wanted to go down to Oklahoma to see my wife; she was with her people down there, and Mr. S. O. Harris, a merchant of Hartford, told me that I could ride down with him, if I wanted to in the car, and catch a Rock Island train out of there down to Oklahoma. I had planned to go down there and rest awhile, and we went, and on the way down there, just as we got to his home, he lived inside the town, he told me he said, "I will have to go over here and get my wife".

Q. Never mind, get right to Hartford.

A. All right. Well, I went into the restaurant to eat lunch, while waiting on the train, and while I was in there, standing talking to Mr. Burrison, this same fellow, they say was McNamara, he came along and brushed up against me in an intimidating way, and run over me kinda, and I was talk-

ing to W. F. Hall, the former bookkeeper of the Dallas Coal Company, and I asked who the gentleman was, and he told me it was McNamara, and I sat down at a table, and he sat down over in the corner, and looked at me like I was a bull, or a dog, or something like that, and as I got up, he brushed by me again, and I was waiting for my change, for Mr. Burrison to give me my change, and Mr. Burrison said if he was me he would not go out there, there was a big crowd all around the restaurant, some in the back and front, and it looked like they were framing up to beat me up, and that he would not say anything if he was me.

Q. Did Will Hall say anything to you?

A. He said he felt sorry for me, and I said that I wanted protection, and also Herbert Wilson, that worked for
1777 us, I told him if they saw Goddard or Slankard there, to tell them to come down, I didn't want to be beat up by a crowd, but I didn't get any protection, and when I got outside, I told the boys I had not done them no harm, and was attending to my own business, and was not expecting trouble, and I didn't see why they wanted to jump on me, and they asked me who I was working with, and I told them I had been working for the company, but they had had shut down their mine, and I had to leave, and I supposed that I would go some place else. I had my application in several places, and in fact had been promised place, and about that time McNamara hit me several licks over the head, and I went into the West Drug Company there.

Q. Did McNamara knock you down?

A. He beat me up, he beat me six times, and knocked me down on my hands. I didn't fall on the sidewalk; he hit me in the face six times.

Q. What did you do then?

A. I went in the West Drug Company, and as I went in, I thought I would get a doctor, I was scared and hurt too, and Dr. Chambers shoved his office door in my face, and I was back in behind the prescription counter, and a big crowd of boys came in there, and Mr. Jess Edwards was in there, and spoke to me at the time, and they were questioning me what they were doing at No. 4, and I told them I had not been at No. 4, and they said I was a liar, that I had been, and I told them to ask Mr. Harris, that he can tell them that I came direct to Hartford with him. I told them—I stayed there until Mr. Goddard came, and he said that he would go with me to the depot, and a young man there, the operator at the station, I think his name was Meeks, he was

the operator at the Rock Island station, and he saw it,
1778 and picked up my grip, and carried it, and said that he would go with me, and he went with me, and Goddard was with me, and he said that he would see I was not beat up any further than I had been, and he went with me, and I went to the station and [stat] in the agent's office until the train came. There was a big crowd outside, but I didn't get hurt any further.

Q. Did someone tie a handkerchief around your head?

A. Yes, sir, I believe it was Meeks, or I tied it myself.

Q. Did you see Dr. Chambers some time after this and have some talk with him about this incident?

A. Yes, sir, I saw him in the Hotel Main.

Q. Did he say anything about that incident? A. Yes, sir.

Mr. Warrum: The defendants separately object to the statement of Dr. Chambers.

The Court: Is he a member of the Union?

Mr. Drinker: No, sir, but he is one that was acting in conjunction with the Union. This question will arise in a number of times. The defendants are not the entire conspiracy, here by any means. The statement here claims, or charges a conspiracy by the United Mine Workers and those acting in conjunction with them. There were lots of people acting in conjunction with them who were conspirators, but are not defendants, and Dr. Chambers is one.

The Court: Is this the same Dr. Chambers that was spoken of before?

Mr. Hull: It is the same doctor that was there at the beating of Looper.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each
1779 of them, at the time duly excepted and still except.

Q. And what did Dr. Chambers say to you?

A. He said that if I had not been mixed up in trouble down there that he would have been glad to have helped me, but he said it would injure his trade, that personally he had nothing against me, but those fellows down there, if I had not been working for the company, he said they would have carried me around on a feather bed, easy, and treated me nice, and I would not have had any trouble like I did.

Q. Had you had any trouble with McNamara before that time? A. No, sir, I didn't know the gentleman.

Q. Do you know who Jim McNamara was?

A. No, sir, not until they told me that day in the restaurant.
Q. Do you know where he had been working?
A. No, sir, I do not.
Q. Who told you who he was? A. Mr. W. T. Hall.
Q. Was he a Union man?
A. No, sir, he was the former bookkeeper of the Dallas Coal Company, and had been bookkeeper for the Bache-Denman also.
Q. And bookkeepers, as I understand, don't have to belong to the Union? A. No, sir.
Q. You didn't have to belong to the Union to be a bookkeeper? A. No, sir.
Q. Even when the mines are running under Union conditions? A. No, sir.
Q. A day or two after the riot of April 2nd, do you remember the incident of someone coming to your house and warning you to get away? A. Yes, sir.
Q. Can you state to the jury what happened at that time and when it was?
1780 A. It was Mr. W. M. J. Gwyn.
Q. Do you know where he worked?
A. He had worked at No. 1, Mammoth Vein as a coal digger, and he was a neighbor and lived right down the hill from where I did.
Q. What occurred at that time?
A. He came to the house and told me,—
Q. (Interrupting.) Was there anyone with him?
A. There was a crowd with him.
Q. About how many?
A. Eight or ten, somewhere along there.
Q. Who was in the crowd, if you remember, any of them?
A. I remember Clint Burris being in the crowd, but I didn't particularly notice who they were.
Q. Do you know where Clint Burris worked at that time?
A. No. 4 Prairie Creek.
Q. Had he worked under Union conditions? A. Yes, sir.
Q. Now, what did Mr. Gwyn say to you?
A. He told me, he come to tell me that if was me that he would take his wife and go away from there, because my life was in danger there. Personally, he didn't have anything against me, but he wanted to tell me that if he was me that he would move away from there, because I was in danger, and I told him that I appreciated it, and I would go as early as I could.
Q. Did you move away from there very soon after that?
A. Yes, sir.
Q. How soon? A. About three days.

Q. Did you ever go back there again?

A. No, sir, only when I went to Hartford, and went through there is all.

Q. When was that conversation that you had with Dr. Chambers at Fort Smith?

A. It was about,—about two years, or a little over, ago. I can't tell you just exactly when, but it was while I was
1781 at Salisaw, something like a year, or nine months, after this had happened.

(A recess was here taken of five minutes.)

Mr. Drinker: I have been waiting for some time to enter the name of Mr. Lewis W. McKernan, as an attorney for the plaintiffs in this case.

The Court: It will be so entered.

Cross-Examination

By Mr. Covington:

Q. How long did you keep the books of the Bache-Denman Company?

A. About three years, at No. 1, something like that, or right around that time.

Q. The night that you came back to Hartford, they arrested McNamara and fined him for assault, did they not?

A. I didn't know that.

Q. Didn't Mr. Goddard, there in your presence arrest him and fine him?

A. No, sir, I didn't see it, Mr. Covington.

Q. Did you say Mr. Reed, what Reed was that?

A. John Reed, Speck Reed, a young man; Mr. Foley's step-son there at Hartford.

[WQ.] What was it he said?

A. He said that if the coal company was going to run that mine on an open shop plan, and work non-union men, that they would not last no longer than they did over at Denning; that they would not stay there as long as Pat stayed in the army. That is the term he used.

Q. Denning, Arkansas? A. Yes, sir.

Q. That is the Western Coal & Mining Company?

A. I don't know anything about that. All I know is what he said to me.

Q. But you do know that that is their mine there? When the committee came down to the office to talk
1782 to Mr. Cameron, you say you were present at that time? A. Yes, sir.

Q. I want to ask you if Mr. Howard, in discussing the matter with Mr. Cameron, didn't state to him that Mr. Bache, without notice to them, abandoned his contract with them, and went on an open shop basis, and they had came down to discuss the matter with him, that they needed the work there, and wanted to see if they could not get him to renew his contract, that is to go on and fulfill his contract?

A. I didn't know what he said, because there was too much confusion around there to understand what they did all day.

Q. At that time, there was nobody inside of the rope at that time, at all? A. In the office you mean?

Q. The rope was attached to one corner, and the other corner of the office? It formed a part of this enclosure, did it?

A. I don't remember. I remember—all I remember, there was a rope there close to the office. It was not to the office, though.

Q. The office was—it formed a part of the enclosure, did it? A. No, sir, not altogteher, I don't think.

Q. Well part of it did?

A. Yes, sir, I believe that is right.

Q. You say there were about 1000 people there?

A. I would judge there would be that many, I might be mistaken, but that is my opinion, there were that many, but that is simply an estimate.

Q. Women and children and men and everybody?

A. Lots of women, some women, and lots of men.

Q. They came there in wagons and automobiles and buggies and horseback?

A. No, I don't know about that, I didn't see them down there at the office.

1783 Q. You saw them at the school house?

A. I would see a crowd going over there.

Q. And they were going in these conveyances?

A. They were marching and walking, most of the crowd I saw was all marching.

Q. Merchants in the crowd, were there?

A. Some merchants, yes, sir.

Q. Some doctors? A. Yes, sir.

Q. Some lawyers? A. Lawyers? I don't know.

Q. And farmers?

A. No, I don't know that there was, I don't know.

Q. And do you know the ministers over at Mansfield and Huntington, do you know whether they were there?

A. No, I don't. I don't have any recollection of that.

Q. Now, when the crowd came up to the rope enclosure, didn't someone in the office suggest that they were fixing to come over the rope? A. No, sir.

Q. And didn't Slankard go out there, and say to them, when he got upon that little pile of slack there, then he came back, and the discussion of Bache violating his contract and the distress there in the community, proceeded as before?

A. No, I thought that was when they were all beat up there, when he got out there in the crowd, when he had his handkercief up, and the gun. That was the time they were all beat up there.

Q. That was the time they were all beat up?

A. I say that was the time the guards were beaten up.

Q. Yes, sir, I understood the time the guards were beaten up, but I want to know what you know about it, and I am asking you if that is not a fact, that that transpired there, after Slankard returned from the little slack
1784 pile when he told them to stay back from the rope?

A. I don't know, Mr. Covington.

Q. You don't know? A. No, sir.

Q. What were you doing?

A. I was inside there, staying inside, keeping the doors fastened.

Q. Now, Mr. Argo, did not Mr. Cameron tell the committee, before Slankard went out, did he not tell the Committee that it was all right, that he had 'phoned Mr. Bache about them coming there, and what they wanted, and that he would advise him to do it,—that he had advised him to not violate his contract, and he would advise him to take it up again where he left off, and go on with it?

A. I cannot remember; there was a conversation there is all I know.

Q. And did he not call Bache then and there over the telephone and talk to him?

A. He was talking over the 'phone, but I don't know who he was talking with.

Q. You don't know what he said? A. No.

Q. Did you ever get out of the office? A. Yes, sir.

Q. When? A. I got out after the crowd left.

Q. After the crowd left? A. Yes, sir.

Q. You didn't get out at any time while the crowd was there? A. No, sir, I did not.

Q. Did not Mr. Cameron walk over to the boiler room just before the crowd came over the rope?

A. He was walking around there considerably, I don't know about where he was before or after.

Q. Did you see him talking to Mr. Looper?
A. He was out there, no, sir, I didn't see him, but he was out there, outside there part of the time.
Q. I will ask you, Mr. Argo, if immediately after he
1785 got through talking over the 'phone, he didn't say, "I will go over here and instruct these boys to pull the fire, we are going back, and comply with our contract?"
A. No, sir.
Q. And if Jim Slankard didn't go out then and tell them to be quiet, that they had agreed to resume operations under their contract? A. I didn't hear that.
Q. You didn't hear that? A. No, sir.
Q. How many guards did you have on that day?
A. I don't remember how many there were.
Q. This man Barnes was one of the Burns detectives?
A. I don't know that. I know they had some men out there, some guards out there, or watchmen, or whatever you call them, I don't know who they were.
Q. Mr. Argo, when did you first carry the guns down to the mine, how long before the 6th of April?
A. I don't know.
Q. They didn't let you know that?
A. I was working—
Q. (Interrupting.) How many guns did you have there in the office, you and Mr. Cameron?
A. We didn't have any guns at No. 4 office that day, that was the only day I was working in the office, that day.
Q. Did Bohanan and Riley Bailey get shot there while you were there? Was that the 6th of April, or after the 6th of April that they got shot there, or shot one another there?
A. It didn't happen on the 6th of April.
Q. Did it happen before the 6th? A. I do not know.
Q. Did the crowd that gathered there, after they came over the rope, did they injure or destroy any of the property at all?
A. They tied the whistle down—tied down a whistle,
1786 and it would make a noise, and all of the men had to quit, and I guess it injured the mine, it would fill up full of water. They had a pump going, because it takes a lot of pumping to keep the water out of No. 4.
Q. There is quite a river that runs down into No. 4?
A. A pretty good stream.
Q. And they let it fill up that crowd didn't cause it to fill up? A. I don't know.
Q. Was it not pretty full, and they had been pumping there all the time? A. It was.
Q. Day and night? A. I don't know.

Q. Is there not a good deal of a river there and it requires them to work day and night to keep the water out?

A. It requires considerable pumping.

Q. And it will fill up in three or four days enough so that it will take fifteen or twenty days to pump it out?

A. I can't answer that question.

Q. Aside from tying down the whistle, nothing occurred there of injury that day at all?

A. I don't know. Everybody was gone from there.

Q. I will ask you if about the time the crowd went away, if Jim Slankard didn't come down to the office, and you were present? A. Yes, sir.

Q. And talked to Cameron, and asked him "now Mr. Cameron, are you going to stay here" and Mr. Cameron said "No, we are going to Fort Smith," and if he didn't ask him if he was not going to leave somebody there to see that the property was not harmed in any way?

A. I don't know.

Q. And didn't Cameron tell him no, and then Slankard said "I will put them on" and that he did put them
1787 on, some guards, for three or four days?

A. I don't know. I went in the office with Mr. Gurley, and came into Fort Smith, and went out where these men were injured that night.

Q. Did Mr. Gwyn, the man you referred to, tell you that the people were complaining about the guards there, that they had shipped in there, Barnes and Bailey, and these detectives?

A. No, sir, he didn't tell me that.

Q. He did not? A. Not that I remember of.

Q. He told you that he was your friend?

A. He said personally he would not harm me, and I told him I appreciated it, and I considered that he was; I considered it that way. But, I didn't want to get killed, I had a wife and two babies; I had one at that time, and I didn't want to have any trouble.

Q. He was secretary, you say, of the Local at that time?

A. I don't know whether he was at that time, but he had been at No. 1. I was keeping books there, and I turned the money over to him. I think Aaron McGovern was secretary at that time.

Q. Aaron McGovern was your friend?

A. I hope so, I don't know.

Q. Aaron McGovern and you were close together, were you not?

A. He was around the office occasionally.

Q. He was injured there in the mine, and didn't get out of bed for eight or ten months? A. I don't remember.
Q. And you were closely related to him, friends?
A. No.

Redirect Examination

By Mr. Hull:
Q. Mr. Covington asked you about the necessity for pumping there. The boilers ran the pumps?
A. Yes, sir.
1788 Q. And the fires in the boilers were pulled that day?
A. Yes, sir.
Q. And it is true, as Senator Covington assumed in his question, that the mine would fill up in three or four days, and require fifteen or twenty days to pump it out, and the pulling of the fire would allow it to fill up? A. Yes, sir.
Q. And damage that mine to that exent. A. Yes, sir.

Recross Examination

By Mr. Covington:
Q. When did you last work on the books of these coal companies?
A. When the Mammoth Vein Coal Company closed down, I had been checking up the rent, around at the mines.
Q. When did they close down? A. April 6th.
Q. They closed down on the 28th of March?
A. I was working for the Mammoth Vein Coal Company at that time.
Q. How much cash did the Mammoth Vein Coal Company have on hand at that time?
A. I cannot tell you what they had in Fort Smith. That was a branch office, and the reports all come to Fort Smith.

The Court: I think the Court will have to interfere, that is not proper cross-examination. He has not testified to any money, or financial matters.

Mr. Covington: Very well, I withdraw the question.

(Witness excused.)

1789 J. W. SYLSBERRY, called as a witness on behalf of the plaintiffs, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hull:
Q. What is your full name? A. J. W. Sylsberry.
Q. Where do you live? A. Live at Clarksville.

Q. You have been an employer of men, and over men, and talked to them, and made them understand you, and I want you to talk so that the last juror can hear, and the Court behind you can hear, and the defendants counsel can hear. I want you to talk right up now. Where do you live?

A. I live at Jamestown, about three miles from Clarksville, Clarksville is my postoffice.

Q. How long have you lived there? A. About two years.

Q. Where did you live before that?

A. Lived at Oklahoma, Moffatt, pretty near a year.

Q. What have you been doing for the last two years?

A. Mining coal.

Q. At Jamestown? A. Yes, sir.

Q. When did you go to work for the Bache-Denman Coal Company, in 1914?

A. In 1914, on the 4th of April, I believe.

Q. Who hired you to go down there? A. Mr. Looper.

Q. What had you been doing just previous to that?

A Running a pigeon hole for myself.

Q. Where?

A. Near Prairie Creek, what they call the narrow, up in the mountains there.

Q. What were you employed as? A. Blacksmith.

Q. Blacksmith? A. Yes, sir.

Q. Now on April 4th two days before the riot of April
1790 6th, do you remember whether any coal was hoisted or not?

A. No, sir, I don't. I don't think there was, though.

Q. What were they doing at the mine?

A. Mostly just cleaning up around the tipple, is about all that was done on the 4th.

Q. Were the pumps running?

A. I am not sure, I don't remember about that. I believe they was though.

Q. Now, on the 6th of April, state what you saw and heard in regard to that crowd coming.

A. Well, there was quite a crowd went to the school house, and part of them came from the direction of Huntington, and part from the direction of Hartford, and met at the school house, and had a meeting of some kind, I can't tell what it was.

Q. About how many people would you say there was in that crowd?

A. Something like twelve or fourteen hundred.

Q. Did you see a band? A. I think so.

Q. Do you know which direction that came from?

A. Huntington.

Q. Do you know anything about a committee coming to the mine from that meeting? A. Yes, sir.
Q. State what you know about that.
A. Mr. Slankard came into,—
Q. (Interrupting.) Who was Slankard?
A. And Mr. Goddard.
Q. Who were they? A. Mr. Slankard and Mr. Goddard.
Q. What position did they hold?
A. Mr. Jim Slankard, and Mr. Goddard, I believe Shell Goddard.
Q. Who was Jim Slankard?
A. He was constable at Hartford at that time.
Q. Did you know whether he was a member of the Union?
A. No, sir, I do not.
Q. Who was Mr. Goddard?
A. I think he was city marshal, I am not sure.
1791 Q. Did they come to you and talk to you?
A. They came up to the boiler room from out where the crowd was, and asked us if we would pull the fire.
Q. What did they say, and what did you say and do?
A. They asked us, they said the crowd sent them in there as a committee, to see if we would pull the fires, and walk out there with them, and we told them we would, and they went back down to where the crowd was, and Mr. Slankard got up on a platform, built by the side of the scales, and made a speech to the crowd of some kind.
Q. What happened?
A. As soon as he made his little talk, the crowd made a run for the boiler room.
Q. You—how would you describe the crowd coming there?
A. The crowd made a run in a bunch, just like a herd of cattle, for the boiler room.
Q. Did anyone in the crowd say anything to you or Mr. Looper?
A. Not that I remember of. There was one man I recognized that walked up where I was standing, out close to the shaft.
Q. What did he do to you?
A. The first I remember, now I believe he asked if we were going to pull the fire.
Q. You were in the boiler room at that time?
A. No, sir, standing out close to the shaft, between the boiler room and the shaft.
Q. What was his name?
A. I don't know whether I can call it just now or not. Newman, Will Newman.

Q. Do you know where he worked?
A. He worked at Six Central, I think.
Q. He asked you if you were going to pull the fires. What did you do then?
1792 A. While I was talking, the fellow that was firing, he run off around the boiler room, in the direction of the hill, on the south side, with a big crowd after him.
Q. Do you know his name?
A. I know it if I can think of it.
Q. Elmer Searles?
A. Elmer Searles was the man, and the crowd run him off around the dirt pile, and so he didn't come back, and then Mr. Looper volunteered to go in and pull the fire, and keep them from burning the boilers up.
Q. How much danger is there in that?
A. About the time we got the fire pulled,—they crowded in on us, when we were pulling the fires, and said to throw us in the furnace and burn us alive, but they didn't bother any of us or put their hands on us, until we had the fires pulled from the boilers, and the first thing I knew, somebody walked up and hit me in the back of the head with a club and knocked me down.
Q. Have you a scar there now? A. Yes, sir.
Q. What did you do, did you fall?
A. I got up to my knees, and as I got up, I recognized one man standing up on the slack, just a little above me, and about that time somebody struck me again on the head here, and he also struck at me, and kicked at me, at the same time.
Q. Who was that?
A. I cannot call his name just now, I know it if I can call it. I cannot call his name to mind just now.
Q. I wish you would think Mr. Sylsberry.
A. He was one of the miners there that had work there at No. 4, before the trouble came up, but I can't call his name to memory just now.

Mr. Hull: I don't want to do anything improper, but Mr. Sylsberry has told me this man's name.

1793 The Court: Refresh his memory.

A. Sometimes I can think of it and sometimes I cannot.
Q. By way of refreshing your recollection, I will ask you if you have not told me in my talking over the case with you that that was Clint Burris?
A. Clint Burris was the man, yes, sir.

Q. What happened after that? A. They was kicking me and beating me, until I was almost dead, and a man by the name of John Silver came to me, and taken me out of the boiler room. I think he taken me out between the two boilers; I am not sure which direction he did go, but he came in while they were beating and tromping me in the slack, and he took me out of the boiler room through the back way, and took me out, up to the house there, that they called the guard house, and kept me a couple of hours, and then brought me to Fort Smith in a car, to the hospital.

Q. While you were up there at that house was Looper brought up?

A. I stopped at a branch, a little ways up, to wash my hands, and they came leading Looper up while I stopped there.

Q. With whom did you come to Fort Smith?

A .With Mr. Finley.

Q. Who else was in the car? A. Me and Mr. Looper and Mr. Finley, and I don't remember the other man, it seems there was another man, but I don't remember who it was.

Q. Looper came in the same car with you?

A. Yes, sir, Looper and I rode in the back seat of the car together.

Q. What was Mr. Looper's condition? A. Pretty badly beaten up, his upper teeth, the front teeth were all knocked out.

Mr. Warrum: The defendants separately object to
1794 the statement of Mr. Looper's condition here. The manifest idea of plaintiffs counsel is to get before the jury the condition of these men that are not suing any of these defendants, but they were the unconscious victims of these plaintiffs own conspiracy. The question at issue here is the damage to the plaintiffs companies.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Q. How long were you in the hospital?

A. About two weeks, I don't remember now.

Q. Who paid the hospital bill?

A. The company, the coal company.

Q. Now, some time after this you were subpoenaed to go to Hartford to testify before the State Labor Commissioner? A. Yes, sir.

Q. State what occurred in connection with the service of that subpoena.

A. When they subpoenaed me to go to Hartford?

Q. Yes, sir.

A. I shut down and left the mine, and came to Fort Smith.

Q. Now, state who came to the mine, and what was said?

A. Mr. Davis, was the man that came with the subpoena.

Q. Did you know who he was?

A. Yes, sir, John Davis.

Q. Do you know where he worked? A. I think he farmed, mostly, I don't think he worked around the mine any, if he did, I didn't know it.

Q. Do you know what position he held? A. I think constable or deputy constable, something like that.

Q. What did you say to him, if anything?

A. I told him I was not going.

1795 Q. You told him you were not going?

A. Yes, sir.

Q. Did you tell him why? A. Because I didn't care about going down there and being beat up again.

Q. Did he say anything to you about protection?

A. Yes, sir, he said they would give us protection, that Mr. Slankard would protect us, and I told him he didn't do it on the 6th of April, and I wouldn't take any chance going with Jim Slankard and being beat up nowhere, and I didn't go.

Q. What did you do at the mine that day, with regard to going to Hartford, or somewhere else?

A. We left the mine that day, about two or three o'clock, along the middle of the afternoon somewhere, and came to Fort Smith that evening, or that night together.

Q. How many of the employes? A. Everything that was working at the mine, I don't think there was a man left.

Q. Where did you go from the mine, what direction?

A. I came back home north of Midland where my family was.

Q. Did you walk? A. Yes, sir, I walked back home and got my horse and buggy and drove into Fort Smith that evening, or that night, it was after dark before we got in here.

Q. Just one little question there,—did you remember whether Slankard made his speech from the platform there before or after you were beaten up?

A. Before I was beaten up.

Q. Did you see that flag put up on the tipple, or banner?

A. No, sir, I seen a part of it after we went back to work.

Q. Did you see the banner, A. No, sir.

Q. You don't know what that banner stated?
A. No, sir.
Q. Mr. Sylsberry, are you the father of Earl Sylsberry, who was killed on the 17th of July?
1796 A. Yes, sir.
Q. He was working for the Bache-Denman Company on the 17th of July? A. Yes, sir.
Q. How long had your son worked there?
A. I don't know exactly, he had not been there though, but a short time; I reckon something like three or four weeks.
Q. He had been working while the company was still operating Union? A. Yes, sir.
Q. He had been a member of the Union? A. Yes, sir.
Q. How old was he?
A. He was born in October '86.
Q. 28 years old, then at the time he died.
A. Yes, sir.

Mr. Hull: That is all.

Mr. Covington: No cross examination.

Mr. Hull: If the Court please, this examination has gone much more rapidly than we expected. I can read a deposition if the Court wishes.

The Court: I think we have done enough today.

(Thereupon an adjournment was taken until Wednesday, October 31, 1917, at 9:30 o'clock A. M.)

1797 Ft. Smith, Ark., Wednesday, October 31st, 1917.
9:30, a. m.

Pursuant to adjournment as last aforesaid came the parties as before on Wednesday, October 31st, 1917, at 9:30, a. m., and the trial of this case proceeded as follows:

Mr. Hull: If the court please, we offer in evidence the deposition of Roland Ford Barnes, taken upon notice, written notice being waived. Said deposition of Roland Ford Barnes was taken at the office of Childs & Childs, in the city of Chicago. County of Cook and State of Illinois on the 18th day of April, 1917, both sides being represented by counsel. (Reading):

"Roland Ford Barnes being first duly sworn by the Notary, on his oath testified as follows:

Direct Examination

By Mr. Hull:

Q. What is your full name, Mr. Barnes?

A. Roland Ford Barnes.

Q. Where do you live now? A. Stillwater, Minnesota.

Q. What is your business?

A. Well, my business—I have been employed for many years as a police officer, handling guards, detective work, and so forth.

Q. How old are you, Mr. Barnes?

A. I am fifty-three past.

Q. Were you employed in the Western District of Arkansas in or around Fort Smith and Hartford, Arkansas, in March of 1914? A. Yes, sir.

Q. Will you state when you entered upon that employment?

A. That would be the latter part of March and some of April.

1798 Q. By whom were you employed?

A. The Bache-Denman Coal Company; at least they advised me they were—

Q. Who employed you?

A. Well, I was sent there—I was sent there from Minneapolis—that was where I had been working for about two years.

Q. To whom did you report?

A. I reported to Mr. C. H. Finley, who was an official of that company.

Q. That was in Fort Smith?

A. Yes, sir. That was on Wednesday, the 25th of March, 1914.

Q. From whom did you receive instructions as to your work? A. From Mr. C. H. Finley and Mr. Bache also.

Q. What were those instructions, Mr. Barnes?

A. Well, I met Mr. Finley first—Mr. Bache wasn't there. He came about three days after I arrived there. Mr. Finley set about to advise me in regard to conditions at their mines, particularly Shaft No. 4, Prairie Creek, near Midland. He discussed those matters with me, and advised me that he was going to change—intending to change from closed shop to open shop.

Q. He intended changing from closed shop to open shop?

A. The policy of running the mines, yes sir.

Q. What were you to do?

A. My work was to be looking after guards and protecting their property.

Q. Whose property?

A. The property of this Coal Company that I mentioned—the Bache-Denman Coal Company.

Q. What were you to do in connection with that work?

A. In connection with that work? Well, I was to act as captain of their guards, and consulting with Mr. Bache when he got there, and Mr. Finley at any time, in regard to the protection of their property and the best way to handle it.

1799 Q. What were you to do as the actual details of protecting the property?

A. Well, I was to visit this mine with Mr. Finley. That is what he proposed after we had this talk—to visit this Mine No. 4 first. We went to Midland and then visited this Mine No. 4. We went all around that property, and went to one other mine or shaft near there, probably about a mile from there—I think he called it the Prairie Creek Mine, if I am not mistaken. There was nothing doing there then. There was a man working around there trying to clean up a little. That was about the—I think about the 31st of March that we went down there. Well, we made two trips there. We went down there, I believe, on the 27th and the 31st. We made about two trips down there, and stayed at Midland, about three miles from Mine No. 4, as there was no place to stay there.

Q. Did you during those days have [an] conference with the attorney for the Company?

A. Yes, sir. We started in down there to arrange things and look after the property, yes. We had some talk—

Q. Whom did you see?

A. Mr. McDonough and Judge Reed at Fort Smith.

Q. Mr. McDonough and Judge Reed? A. Yes, sir.

Q. Did Mr. McDonough and Judge Reed give you any instructions as to your work there?

A. Not exactly regarding my work, but regarding the law, yes, sir.

Q. What did they tell you as to what the law was?

A. Well, they said that the law provided that you could not carry no fire arms under your clothes, nor strapped to your body, and that there wasn't no chance to be deputies, that you only was an ordinary citizen as an agent or a guard, but that—well, he advised me at that time, and Mr. Bache was present, that the guards could be provided with rifles or shot

1800 guns to carry in their hands while they was working around this Mine No. 4, for to have to protect themselves—they only could be used to protect themselves from being killed or from somebody that might come to take the life of another, or burn up the property, or blow it up in any way, and in preventing that, if we would be molested in any way that our lives would be in danger, that we could use those

guns, those rifles—no other way. That constituted the advice —about—that Judge Reed and Mr. McDonough give—it was along that line. It is three years ago—to the best of my recollection that is the way they advised.

Q. Were you told anything as to not using these firearms for any purpose except those you have named?

A. Just exactly as I have mentioned. That is the way I was instructed. In fact, I was pretty thoroughly familiar with the matter of using those means.

Q. How many men did the Company have in its employ when it started to operate open shop on the 4th of April?

A. That was, I believe, on the Saturday—I think it was the 4th of April.

Q. About Saturday.

A. They had somewheres around fifteen or twenty men, I believe.

Q. When did you go to the mine to take up your duties as captain of the guards? A. To stay there?

Q. Yes.

A. I think it was about Wednesday,—that would be the first of April, I believe, wouldn't it?—I think it was about April first. We went there to stay at a little frame building that Mr. Bache had rigged up for us and put a cook there, about three blocks from the—

Q. How many gaurds were there with you?

1801 A. When we started there—there were three or four guards to start in with, and the most that we had—yes, I believe as near as I can recollect the most we had was six.

Q. On what day did you first have any personal encounter or meeting with any men coming to the mine from the outside?

A. From the outside? That was not working there?

Q. Yes.

A. Well, let's see now—let's see—Saturday, the 4th, was the first that they had opened up there to do any regular work.

Q. What were they doing on Saturday?

A. Well, they started on Saturday morning—now, Friday afternoon there was quite a few persons, men, had congregated around near the mine, and stood around the road and the field near this office, that was on the grounds there.

Q. Was that outside or inside the so-called enclosure of the wire rope?

A. It was outside, but there was no trouble or differences with anybody on that day.

Q. Did you recognize any of the men in that crowd?

A. On Friday?

Q. Yes.

A. There was men pointed out to me by Mr. Looper that worked at the mine there. The name of Clint Burrows—he pointed him out to me, and told me that he was one of the men that had worked at the mine, was one of the miners that had been working at the mine, and the reason that he pointed this man out, he was advising me to look out for that man. He advised be to look out for that man. He went on to state something in regard to his record.

Q. You needn't say what Looper said to you.

A. No, sir.

Q. On Saturday, April 4th, what were they doing at the mine? What were the Company employes doing at the

1802 mine?

A. They had started to operate on a very small scale.

Q. By operation what do you mean?

A. They had some men in the mine.

Q. Digging coal?

A. Yes, and bringing it up and emptying it into the chute.

Q. Did you see any coal hoisted?

A. Yes, sir, I'm explaining. It was hoisted and lifted into two different cars that day.

Q. On Saturday whom did you meet—some person or persons coming from the outside of the mine?

A. On Saturday?

Q. Yes.

A. Well, to my best recollection on Saturday—Saturday forenoon there was quite a number of persons had congregated on the outside of this enclosure that you spoke of and had set on some gondola cars that was empty out on a branch that ran into this mine No. 4.

Q. Was that outside of the enclosure?

A. Yes, sir, outside. They had been sitting on those cars and around, and they hadn't made any effort to come in over the enclosure in the forenoon.

Q. Did you see Constable Slankard of Hartford there on that day?

A. On Saturday—I believe Saturday afternoon—sometime Saturday—I forget which. Mr. Bache was over on that day, when we started out. Himself and Mr. Slankard came there that day. I forget just what time it was.

Q. Whom did Mr. Slankard see?

A. Mr. Slankard had a talk with Mr. Bache. I was present. The three of us was joined in a talk in regard to—Mr. Bache was explaining to him what he intended to do,

1803 and wanted to pull matters through without any trouble, and he introduced me and explained to him what I was there for, as best he could, and both Mr. Bache and I at

the time asked Mr. Slankard's co-operation in trying to keep peace, and explained what we intended to do. At that time this enclosure was made. There was an enclosure made around the mine.

Q. State what the enclosure was.

[Q.] Well, there was a portion of it was rope and wire—a steel wire cable. And some places the construction was of rope. It was just put on stakes around the shaft, around the mine there, probably—well, it may be a couple of hundred feet from the main shaft, that is, in circumference right around it was a couple of hundred feet from the building at any point, and probably a little more.

Q. Just the single wire cable or rope?

A. Yes, sir, there was posts put up, and they was [driver] like that—(indicating—and this wire cable was spiked to it, fastened to it. This little office that was on the grounds made a portion of the fence. The fence came up to each side of the enclosure there at the office.

Q. So that the office was part of the enclosure?

A. Yes, sir.

Q. Did Mr. Slankard say anything to you that day or to Mr. Bache in your hearing?

A. Well, in discussing the feeling of the miners, Mr. Slankard was advising Mr. Bache in regards to their feeling apparently—that he thought it would be better if his guards wouldn't carry those rifles, and Mr. Bache explained that he was not in any violation of law, and it was the only means of any protection that his guards could have. He was ad-
1804 vised by Mr. Reed and Judge McDonough in regard to the law. He went on to explain to Mr. Slankard that, at no time was he going to use them, or attempt to use them, or make any hard feelings in any way with them, and just simply had them for protection if it was to save their own life or that of another. Well, Mr. Slankard said it was all right in that way, but that it made a lot of hard feeling, and they was doing a lot of talking, and it might raise some trouble. Mr. Bache said the guards wasn't going to make any trouble or use them in any way, or attempt to use them or put them at anybody. He also suggested to Mr. Slankard that if he would talk with the men and advise them, and use his judgment in advising them, he thought there would be no trouble at all. That was about the size of the conversation.

Q. Did Mr. Slankard make any promises in regard to that co-operation?

A. Yes, he did. He promised Mr. Bache he would do everything he could. He also advised Mr. Bache he had a great deal of influence over the men at that time.

Q. What occurred, if anything, on Sunday, April 5th?

A. There was something else that I might mention that occurred on Saturday in regard to the—

Q. Please state what it was?

A. On Saturday afternoon, shortly after the noon hour, the men had their dinner and went to work in the mine. There was apparently the same number or bunch of men that had been there in the forenoon, that came back after dinner, and was around those cars and outside of the enclosure, and Clint Burrows and two or three other men came up onto another track that was close by this track, that came right into the mine, into the shaft. Where this wire cable was
1805 stretched across the track as a fence, of course, and all around on those wire cables and different places on posts, there was signs that Mr. Bache had printed and put up, white signs with big black letters printed on them, "No Trespassing or Entering to this Property." I believe that was the substance of the lettering.

Q. Now will you state what occurred on Sunday?

A. Well, in connection with this, Mr. Burrows and these two or three men had came up and had took hold of this rope. They put their hands on it, and was going to climb over it. I happened to be standing off—well, there was a Mr. J. R. Bailey and I. We wasn't very close to each other, but we could see each other.

Q. Was Bailey another guard?

A. Yes, sir. I noticed those men when they come there, and Clint Burrows was with them. It was Saturday afternoon. I asked them which way they were going. They said they wanted to go into the mine to see somebody—they named somebody that was working in the mine. I told them they couldn't go over that fence or inside that enclosure, that the company had erected that there, and Mr. Bache had advised me to direct anybody that they mustn't go inside that enclosure. They went back a ways. They didn't go back far, and they didn't come in, but stood there discussing matters. We watched them, Mr. Bailey and I, but that was all that was said on that day.

Q. Now, what occurred on Sunday?

A. On Sunday—that would be the fifth. Well, there was no particular work going on in the mine. The men wasn't working on Sunday, as I recollect, with the exception
1806 of Mr. Looper and one or two other men, who I forgot their names were about the mine kind of cleaning

up and looking after things around the shaft, but there was no regular work going on that day.

Q. Did anything occur with reference to any man or persons being outside of the enclosure.

A. Yes, sir. Now, this—on this forenoon—the Saturday night previous I had been out quite late Saturday night, with three or four of the guards. We generally kept three or four guards working at night, and about two in the day, and I had been out quite late on Saturday night, and on Sunday forenoon I didn't get down, I believe—down to where—inside of this enclosure from the house where we was staying, which was about three blocks away—until about nine-thirty, I think it was—somewheres around then. Mr. Bailey was on duty around the yard, and Mr. Looper. He was looking after things on that Sunday forenoon, working as a guard. And about nine o'clock Mr. Bailey or Mr. Looper sent up to the house for me, that they wanted me down there. I came down inside of the enclosure and came over to the—right near the shaft—and I met Mr. Looper first, and he said that—just previous to meeting Mr. Looper on my way down to this enclosure from the house that I spoke of I noticed on my left where there was three or four box cars probably two box cars and two gondola cars setting on this branch.

Q. Outside of the enclosure?

A. Yes. There was probably between twenty and thirty men. There was some of them up on top of the box cars, and some of them standing in the gondola cars, and some of them standing on the ground, and they was doing a
1807 lot of whooping and screeching and apparently having an altercation with some one and calling him names, and they was swearing and using bad language. They were very loud. I didn't pay no attention to them. I went on to meet Mr. Looper and see what the trouble was. I know they was setting—you know how they was—but I didn't pay no attention to them. On arriving at the shaft I met Mr. Looper, and I asked him what the trouble was, what was the trouble out there, what I was wanted for. He said that Mr. Bailey wanted to see me. He says, "There seems to be trouble with those men on the cars. I guess they want to get after those men on the cars. I guess they want to get after those parties in the box car." There was two box cars inside of the enclosure. They was made up in a way—one of them was—that they could do some cooking in it. There was two bunk houses there near these cars.

Q. By whom were those bunk houses occupied?

A. They were occupied—I don't know the people's names. There was two men had occupied those bunk houses, and their wives and children.

Q. Employes of the company?

A. Yes, sir. They had been sent for and come from some place, and they stayed right on the grounds. They had their wives with them. This little bunch was composed, if I remember right, of three men and two women, and one of two little children. When I come to find out—Mr. Looper, he said he believed that they wanted to get those men out of there, is what they was after. So I started down towards the cars, and when I was going down towards the car this disturbance that I spoke of seemed to quiet down. There wasn't apparently very much said, and I met Mr. Bailey coming up from the cars, the guard, and I asked him what the trouble was, and he said that the bunch of men that was out on the cars and standing around

1808

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Q. Mr. Barnes, don't tell what Mr. Bailey told you. Tell what you saw or did.

[Q.] Yes, sir, I can do that. That was all I saw.

Q. Did you see any rock throwing on that day?

A. When I was coming down I noticed some persons among the bunch that was throwing rocks toward the bunk house, and they was whooping and screeching—

Q. Did you recognize any persons in that crowd?

A. Clint Burrows was the only one I recognized that I can swear in the crowd. There was many others that I seen.

Q. Now, coming to Monday, April 6th, will you state what occurred on that day, beginning with the events of the morning? A. The events of the morning?

Q. Oh, just a minute—did you do anything on Sunday with reference to sending for a sheriff?

A. Well, that was just what I was getting at when I met Mr. Bailey. He advised me about this [troub,e].

Q. Don't tell what he told you, only what you did.

Q. No, sir, only what I learned, and knowing the promise that Mr. Slankard made to Mr. Bache, I thought it would be well to try and get hold of Mr. Slankard, and have him take care of anything outside of the enclosure to save trouble for fear they might come in. I went over to this little office where they had a telephone, and if I remember right, the clerk who was in this office, or some person there in charge, telephoned for Mr. Slankard, and Mr. Slankard came over there on Sunday. He came inside of the enclosure. Now,

I'm not just sure whether Mr. Finley came to the
1809 grounds that afternoon or not, but it strikes me that it—I believe Mr. Finley was there when Mr. Slankard got there. However, Mr. Slankard came. I met him, and I believe—

Q. Did Mr. Slankard say anything on Sunday when he came?

A. After I explained about this trouble, and told him all about it, I told him in view of the fact that it was the Sabbath day, and everything was in peace and quiet at the mine and around, that it looked and sounded very bad for those men to be participating in the conduct that they were, and I asked him if he would go out on the cars and see them, and talk with them, and advise them, and try to take them away with him. He said he would, and he says "I can handle them. They have been very noisy, and they hadn't any business coming out here this morning when there was nothing doing here." I says, "Mr. Slankard, it will be doing us a great favor if you will." He said he would. I explained to him about the trouble that was between those men and the persons that was in this bunk house. I explained all that matter to him, and some little differences that Mr. Bailey had in keeping the men away, and Mr. Slankard, he says, "I'll attend to all this matter, Mr. Barnes, and there will be no more trouble here today." I stood there, and he went down to the cars, and he got up on the cars and talked to those men, and talked with the bunch on the ground. He talked to them for about twenty minutes. By that time there —well, they were nearly all gone. They had started over toward Hartford. Inside of a half hour he had every one of them away from there. On that day he seemed to take an interest in doing what he promised Mr. Bache he would do.

Q. Coming to Monday, April 6th, what occurred in
1810 in the morning, Mr. Barnes?

A. In the morning the men all started to work as usual—did you want me to say anything about the handling of those guards, or the advice that I had gave them in regard to—pertaining to their duty?

Q. State what instructions, if any, you gave to the guards under you.

A. In the beginning this enclosure was erected through Mr. Bache's order. Probably two or three times a day I would come in contact with each one of those guards, as well as in the evening. I called each and every one of their attention to the instructions I had received from Judge Reed and Mr. McDonough in regard to our duty, what we could do, and what we couldn't do. I think there was four or five

of those rifles among the guards. I told each one of them that in no case in traveling about the enclosure or from the enclosure to the house—that was about the only place there was any traveling done—in carrying their rifle I told them to always carry it under their arm, with the muzzle pointing toward the ground, in no case to carry it in their hand, because in that way nobody could say if they wanted to that it was pointed at them. I told them not to carry it in any other way. I told them not to use that rifle unless it was to save their own life, or that of another, and that would be where an attempt might be made, either night or day, of any person coming inside of this enclosure to fire or blow up the mine, or to bind or gag or beat up a guard in order that they might perform this work. I just happened to mention this in that way. I told them that would be the only time to attempt to use the rifle.

Q. Did you during your work at the mine, either
1811 yourself point a gun at anybody, or see any other guard point a gun at anybody?

A. No, sir, I did not, never at any time, no, sir. Moreover, I instructed those guards in connection with the advice about the rifle that when they would meet any person or persons, whether they might judge they were miners, or who they might be, to talk kindly to them, and not enter into any altercation in any way. I told them if anything was said to them that might be considered an insult to stand and not say anything, and to always keep inside of the enclosure at all times, that it wasn't necessary to go outside of the enclosure. I said if the miners came around to let them be around, that we wouldn't bother them, that we was only there to protect the immediate property inside of the enclosure. There was never a day that I didn't go over this with them, because I thought that it was really necessary to do that. I thought it was best to do that. Mr. Slankard also understood that I had issued those instructions, because I talked with him, and had mentioned this very thing in this way to him.

Q. Now, coming to Monday morning—what happened?

A. Well, the men went to work as usual, around fifteen or twenty of them.

Q. First with reference to the arrest of yourself and Mr. Bailey.

[Q.] Well, that was some time Monday forenoon, April the sixth, I believe. Mr. Slankard and one other gentleman with him who said he was a deputy sheriff—I forget his name—

Q. Do you know whether that was Mr. Baker?

A. I believe it was Mr. Baker—had come inside of this enclosure and asked where Mr. Bailey was. He asked
1812 me, and I says, "He is somewhere around here," and I saw him and called him. Mr. Bailey came over, and Mr. Slankard informed us that he had a warrant for our arrest. I asked him to read it to us, to show it to us. He pulled out a piece of blank paper that was filled in with lead pencil, but there was no charge of any description mentioned in the warrant, any more than I believe disturbing the peace, and I asked him what way we had disturbed the peace. He said he didn't know. He said, "That's all I know, what is written in here. You are charged with disturbing the peace yesterday, you and Mr. Bailey." He told us to consider ourselves under arrest.

Q. Did you notice who had sworn out those warrants? Did you notice by whom they were signed?

A. I think it was Clint Burrows, if I remember right. I didn't have the warrant in my hand, but Mr. Slankard stood nearby and read it, and I noticed that it was sworn to by Mr. Clint Burrows, if I remember right, as to my best recollection.

Q. What did you do then, or what did Mr. Slankard do?

A. Well, I told Mr. Slankard, advised Mr. Slankard that knowing that I had—I felt that I hadn't done anything any more than any other day—going along peaceable, and really more peaceable than any other day—and hadn't done anything in any way to violate the law, I told him he knew that, and asked him what I had done. He said he didn't know, he couldn't help it. I asked him to give us a chance to get bail. I went to this office and 'phoned up to Mr. Bache, and Mr. Bache instructed a foreman there, a superintendent—

Q. Cameron?

A. Yes, sir. He instructed him to write out a check for bail. Mr. Cameron did, and turned the check over to
1813 Mr. Slankard, and Mr. Slankard took them and went away.

Q. So you didnt leave the mine property?

A. No, sir. Mr. Slankard said that was all right, he would notify us when to appear.

Q. Do you know how much that bail was?

A. I believe it was three hundred dollars.

Q. For each of you or for both?

A. I cant swear positive. I know it was three hundred dollars.

Q. What was the outcome of that proceeding? Were you called into court at some subsequent day?

A. No, sir.

Q. You dont know then what was the disposition of the case?

A. I believe the following Tuesday or Wednesday had been set to have us go into court, but we was in the hospital then—Sparks Memorial Hospital in Fort Smith. We went there on Monday evening, and Mr. Bache said he would take care of the matter so that we wouldnt have to go court, he would attend to it and arrange it.

Q. After the departure of Mr. Slankard with your bail bond what happened?

A. What happened? Well—let's see. Mr. Bailey and I was on duty. We was the only two. I believe the rest of the guards was out at night, and was sleeping, and there was only us two on duty. Abuot ten o'clock there was a man came. I believe he called himself Mr. Breen.

Q. Was it Bean?

A. I dont know how he spelled it, but I thought his name was Breen. He said he was a deputy sheriff, and wanted to get acquainted with me. I shook hands with him and I told him who I was. We talked a little while, and he
1814 went away. He went over in the direction of a school house—

Q. What time was this?

[Q.] I believe it was about half past ten or eleven.

Q. What did he say to you?

A. This man that said he was a deputy sheriff?

Q. What did he say to you?

A. He didnt say a great deal. We discussed the weather, and he didnt say much about conditions or anything. He didn't discuss matters, and I didnt myself, any more than that he said, if I remember, that there was something going to take place in the afternoon, and he says, "That's the reason I am around, to see what's going on." I didnt ask him what he meant, and he went away.

Q. He went over toward the school house?

A. Yes, sir.

Q. What did you see after that?

A. About eleven o'clock—it might have been between eleven and twelve—Mr. Bailey and I [heerd] a band playing, apparently over in the direction of Hartford. It was going toward this school house. It was only a few minutes after that until we noticed there was a good many people marching, a good many men and women and children marching after this band.

Q. Toward the school house?

A. I should judge about four or five hundred persons, mostly men.

Q. Toward the school house? A. Yes.

Q. From what direction?

A. I believe from Hartford. I wasnt much acquainted—

Q. As you looked at the school house from the mine was it left or right?

A. It was the left. And later, after that, there was that many more came from the right.

Q. Do you know whether that was from Huntington?

1815 A. I believe it was. I am not sure. I was told—

Q. Dont state what you were told. What happened then, Mr. Barnes?

A. Well, it was somewheres around the noon hour then, or probably a little after twelve. We had our lunch brought down, and we eat our lunch inside of the enclosure, Mr. Bailey and I, and we witnessed those people over at the school house, and they was standing around and playing the band, and conversing with each other, apparently. We could see them quite plain. They appeared during this time to be a few more men draggling along from here and there, going to where this bunch of people were, and we judged there was between twelve and fifteen hundred, and they played the band there and made speeches there. We could hear them speaking. They were standing in a buggy and standing around. There was a good many went in the school house, but they didnt stay there very long. After we got our dinner they still was there. I think it was about one o'clock—there was a man or two came over from that bunch, from the school house, and came into the office where Superintendent Cameron was. They went away again.

Q. Do you know whether one of those men was Slankard?

A. No, sir, I do not. I wasnt close enough to know. They had horses, they was on horse back. Shortly after that the clerk that was in this office, he came out and went around and see a few of the men around the mine. He had some talk with them. I dont know the nature of the talk, any more than what I learned afterwards, but I learned afterward—

Q. Never mind. Dont tell what you learned. Go on, Mr. Barnes. Tell this story of what happened.

A. About one-thirty, between one-thirty and two

1816 o'clock, along there, I had—about one-thirty I had went up to this little frame building where we were stopping. I had wanted to get some mail to send out with

Mr. Cameron to the post office. When I started from the house to go down, this band was playing, and all those persons that I described at the school house were following the band over towards the mine. When I got down to the mine I met Mr. Bailey, this guard at the mine. By that time this bunch of people was down to the little office and to this fence, the enclosure. They surrounded this little office and a considerable portion of the fence adjoining the office, probably taking up about a hundred or hundred and fifty feet along the fence. The rest of the men and the balance of them was standing out behind—making a bunch of people of between twelve and fifteen hundred, as near as we could judge. Mr. Bailey and I stood there talking. They was standing down there at this fence—they hadnt appeared to start any trouble yet, or to do anything. They was just standing there looking. So I told Mr. Bailey, I says, "Mr. Bailey, they must be going to mob us this morning, and take away our firearms from us, our riflees from us." We had been expecting this—we was. I says to Mr. Bailey, I says, "We are not going over there to issue any advice or anything, unless they commence taking down the fence or coming in," and I says, "When they do, if they do, we will be very careful what we say, and in any case have your gun, have the muzzle toward the ground, under your arm. Dont make any attempt to use it." I says, if we are mobbed by them we'll turn over our rifles, and anything we have, and let them take possession, if they want to. We cant help it. There is only two of us on duty." I says to Mr. Bailey, I says, pointing
1817 out to him, "You can walk around inside of the enclosure in this direction, and I'll start around the other way." We wasnt going to pay any attention to them, just see what they did, not going over to them unless they made some attempt to destroy the property. Mr. Bailey walked over where they was, only a little more to the right of them, and I started down across the track, where this fence that I spoke of was. Some of the number spoke to Mr. Bailey, and when I [heerd] them I turned around, and Mr. Bailey then turned to me, and he says, "Those men here wants to see you." I says, "All right." So Mr. Bailey stood right where he was. He was probably within fifty feet of this fence where the bunch of people stood. I come over to him, and I says, "What do they want?" He says, "I dont know. They want to see you." I says "All right, let's go down." So Mr. Bailey and I started towards the bunch. As we was nearing the bunch I noticed at that time that they had the fence all broken down for a portion of a hundred feet from

the end of the office, and they was standing on the wire cable, a portion of the men was, probably a couple of hundred was, standing all bunched up. There was one man—there was one little old gentleman, apparently a cripple, crippled in some way, and he walked a little lame. He stepped inside of the enclosure and he walked towards us, and he had a little American flag in his hand, and he waved it, and was laughing. Well, it kind of looked to us in a way that they was going to be good natured, and wanted to find out something, and it wasnt going to amount to much. As I was going towards them I took off my hat and waved it, and bowed to them, and I went down and shook hands with him, and he says, "There's a committee wants to talk to you." Mr. Bailey and I stepped over towards the fence where
1818 they was all standing on the cable. As we was going towards the bunch, just after leaving this old gentleman, and probably being within twenty feet of the fence, there was a good sized rock struck my head. It didnt cut my head; it cut my hat. I put up my hand and my hat was all crushed in. The rock had fell right near me. I didnt pay any attention to it, no more than that. I didnt ask where it came from or look where it come from, because I knowed there was something doing then, and there was nothing said, and I didnt ask any question. In fact I made no motion any more than if it hadn't happened. When we got down within three or four feet of the fence, Mr. Bailey and I stopped, and I stood my rifle behind my back, putting the muzzle down to the ground, and let it stand like that—(indicating). I said "How do you do, gentlemen?" Mr. Bailey placed his rifle the same way. There was one man—I dont know his name. I would know him if I seen him—a young fellow somewheres around twenty years of age, I believe. He said, "What is you sons of bitches carrying those guns for?" I knowed it wouldnt do for us to say a word at all or make any remark. I had my mind made up as to what was going to happen. So I smiled. "Well," I says, looking at this young fellow. I says, "Guns are carried sometimes to hunt," but I says, "in this case we have been furnished the rifles to protect our lives and this property if we have to." That was my answer to them. I was smiling when I said it. There was somebody else near this man that I spoke of, that spoke up, and he said, "Well, we know you, you son of a bitch", he says, "we know you. You've been here before, or in this part of the country. We know you. You've been in to strike trouble here before some place." I dont know who he was. I made the answer, I

says, "No, sir", I says, "I never was in this part of
1819 the country, or in any strike trouble in my life before."
There was some other voice says, "Yes, you son of a bitch, we know you was. In 1908 you was down here in Oklahoma. There was trouble there, and you was in that—you was heading that there." I says, "No, sir, I never was." There was several voices spoke up, and said, "We know better. We know that you were." With that, about that time as near as I can remember, there was five or six persons had commenced to step in over the line and crowd in, and as they did apparently the rest was coming, so I advised them, I says, "Gentlemen", I says, "we would wish that you gentlemen would stay outside of the enclosure. We are glad to talk with you in any way we can or co-operate with you in any way we can, but dont come inside of this enclosure. This fence has been put here by the Company, by Mr. Bache's order, and we dont want anybody inside." There was a couple of them came right up where we was standing. Mr. Bailey and I went to step up, and I put up my hand, and I says, "Gentlemen, dont come any further, or break down this fence any more." They says, "We dont want to pay any attention to you, or Mr. Bache, or anybody else. We come to take charge of this property, and we'll show you where you are at." I says "All right." So about that time Mr. Slankard was on horseback, and I think Mr. Baker was with him, and one or two other gentlemen rode right over the fence and come up to us. I asked Mr. Slankard, I says, "Mr. Slankard, those men," I says, "I believe I'll have to call upon you," I says, "to suppress the disturbance and push these men back out of the enclosure. Will you kindly help us?". He says, "I—will in a little while. I have
some business at the office with Mr. Cameron. There is
1820 a committee of us have some business with him."
They started over toward the office, which was some fifty or seventy feet from where we stood. As soon as they went, probably three or four hundred of this bunch surrounded Mr. Bailey and I there, came all around us. They surrounded us. The only man that I recognized that I could call by name was Clint Burrows. He got right up near where I stood. There was some elderly gentleman that stood right near him. Those two men spoke up. They says, "We, we'll soon see this thing out, or see what we're going to do." It seemed to me right at that time that there was great danger—the reason that I believe that, there was some of those men apparently looked to be intoxicated—by their actions—and it struck me very forcible then that our lives were in danger,

and I asked those two men that stood near me—this man Burrows and the other one—I forgot his name, but he was in elderly gentleman—I says, "Boys, before you gentlemen go any further, wait until Mr. Slankard and this committee comes out, and see what they say." This elderly gentleman spoke up, and says, "Yes, boys, that will be best for you not to go any further until Mr. Slankard comes out." Some fellow yelled out, —I dont know who it was. He says, "If you had another drink you would be all right. We're going to attend to this matter ourselves right now. Mr. Bailey and I was standing there with the guns in the same position. I motioned to Mr. Bailey—"Let's try to push through the crowd to get away from them,"—because I seen they was going to attack us. We started, and went probably two or three steps, and in taking those steps we had to shift our guns along by our sides, and they put up their hands and said, "Stop, you fellows arent going any further."

1821 I says, "All right, gentlemen." So at that time Clint Burrows and one other man—I dont know who he was —there might have been three of them—they dropped down on their knees and dragged my gun out of my hands. At the same time somebody took Mr. Bailey's rifle. As soon as they done that. I says, "All right, gentlemen, you can have those rifles, and welcome." I says, "We never intended to use them unless some one was going to kill us. We dont anticipate that." I put up my hands. "We surrender to you. We're through. We quit. You've come in and broke down the fence. There's only two of us, and there's twelve or fifteen hundred of you. We put up our hands." I put up my hands and Mr. Bailey put up his. I says, "We're through. We quit." I hadn't those words out of my mouth until Mr. Burrows was right by my side, or almost in front of me. He riz the rifle and the butt of it come down on my shoulder—the back of my head—here. At that time there was apparently three or four struck me at the same time, at the top of the head, at the back of the head, and kicked me. I went down in a heap. While I was down I was kicked. I could hear Mr. Bailey singing out nearby me. I riz to my feet. I grabbed hold of somebody by the waist, and I riz up. I says, "Gentlemen, for God's sake dont kill us. We're men. We're got families, and we dont want to be killed or have any serious trouble here. Let us get out of here. I told you that before." At that time somebody had hit me again on the side of the head—well, I got it here—(indicating)—and on the top of the head, and on the shoulders. I went down again, and struck a puddle of water. As

soon as I was down the water brought me to, and I jumped to my feet, and I ran probably three or four steps. Somebody had a rifle and was making another swing at me.
1822 The rifle came with in probably a foot of my head. It didnt touch me. I was hit again by something, apparently like a blunt instrument or a sand bag. I was only hit once with it, and I went down. I got up, and went down again. At that time I was bleeding from the mouth and from the ears. I was kicked so bad and beat that I hardly knew what I was doing. Mr. Bailey, I could hear him yelling, and I started to yell myself and sing out for Slankard and "For God's sake." At about that time Mr. Slankard came along, and one or two men with him, and he got right in front of where I was. There was some man standing over me with a rifle, and he took the rifle from him. He says, "Boys, you have done enough to these men. Let up—let up—stop." They apparently stopped. I come out and stood along-side of Mr. Slankard, and I see Mr. Bailey standing there, and all bleeding. He was bleeding from tne nose, and I noticed one of his cheeks was all swelled up. I [taken] a handkerchief from around my neck, and was wiping the blood off my face. I could hardly see for blood. I says to Mr. Bailey, "Come on, let's get out of here." So I started from there to go by the shaft up towards the house where we was staying. When I got along by the shaft, by the mine—you had to go by it—up to the house—they—I started to look back, turned around, and looked over my shoulder, and I see apparently about a dozen coming along in the same direction that I was going, and there was a bunch of them started in another direction, over towards the blacksmith shop, I believe it was, which was on the grounds of the mine. When I got along a few feet further I fell. I got so weak that I fell. I jumped to my feet again, and I looked back, and they was coming pretty close. I started off as fast as I
1823 could. I went up to the house where we was staying. There was four or five other guards asleep. I come in and asked for some water to wash me. Some of them got up and helped me, and held me up while I was washing. I told them what had happened. When I had some water I stepped toward the door, and they stepped out with me. We looked down toward the shaft, and we see them going up into the shaft, and going into the blacksmith shop, and apparently going into every building that was in the enclosure. They appeared to be tearing everything, and hollering, and says, "This is a union man's country, and we'll drive these sons of bitches out of here, every man of them." There was

a lot of them coming toward the house as hard as they could run—three men ahead, and eight or ten after that. Those three men made the house where we was staying, the guard house, we called it, before the bunch got up to it. However, there was two gentlemen came right up after those three men came in, and one of them was a pretty well dressed gentleman, apparently he was a business man. He looked at me and he says, "What is you fellows going to do? Are you going to leave here?" I said "Yes, sir. Some of us has got to get to a hospital," I says, " as soon as we can." I says, "We're going to leave here. I told them that. I dont know why they wanted to do us up like that when we hadnt done anything to them." He says, "If you want to get out of here with your lives and not blowed up or anything, you will have to get out of here this afternoon." I says, "Yes, sir, what's what we're going to do." So he started away. A few minutes after that there was an old gentleman that two or three of the men had dragged along, was carrying along, with his head all cut and bleeding—I forget his name—

Q. Was his name Sylsberry?

1824 A. That's the name. They carried him in and washed the blood off him, and by that time Mr. Bailey come. Mr. Bailey didn't come along with me when I come. He said he run into the office where Mr. Cameron was, when I asked him why he didn't come with me.

1825 Q. Never mind what he said. A. That's what I—

Q. Just what you saw.

A. Yes, sir, yes, sir. So I believe I sent for Mr. Cameron then, or Mr. Cameron came up to see us. Mr. Sylsberry was there, and Bailey and myself.

Q. Was Looper there?

A. He was injured. I was done up so much I could hardly talk myself. I told them to call up Mr. Bache and describe to him over the phone that something had happened, and to send some automobiles down there to take us fellows out of there. I told them to advise him that none of us would remain there any longer. Some of us had to go to a hospital, to a doctor. To send an automobile for us, as we couldn't remain there any longer. Mr. Cameron did this, and somewhere's around four o'clock I believe it was, Mr. Finley came down with an [autom], and some other gentlemen. There was two or three autos—two that I remember of—I think there was three that took all us guards out of there, and our baggage.

Q. Where did he take you?

A. He took some of us to Sparks Memorial Hospital, at Fort Smith.

Q. Did you go to the Sparks Memorial Hospital?

A. Yes, sir.
Q. Who else went with you?
A. Mr. Bailey and Mr. Sylsberry and Mr. Looper.
Q. How long were you in the hospital?
A. Let's see—that was the evening of the 6th. I was there seven or eight days, to my best recollection.
Q. Were you there because you were sick, or was it simply and solely on account of these injuries that you received on that day?
1826 A. It was on account of the injuries I received that day that I had to go to the hospital.
Q. Do you know what doctor treated you?
A. I forget the physician's name. I knowed it at the time. He was a doctor that I believe Mr. Bache recommended him as one of the best doctors.
Q. Do you remember whether it was Dr. Cooper?
A. I do not. I forget his name.
Q. What did you do after you were released from the hospital?
A. Released from the Hospital. I started for Minneapolis.
Q. You didn't go back to the mines again?
A. No, sir, I did not.
Q. One more question, Mr. Barnes. At any time during the period that you worked at the mines, did you go over into what was called Frogtown? You know what Frogtown was?
A. No, sir, I don't remember—
Q. Just a minute. Do you know what Frogtown was—the settlement called Frogtown?
A. No, sir, I don't remember about it.
Q. Did you at anytime during the period that you worked at the mines go outside of the enclosure and do any shooting with your rifles?
A. No, sir, we done no shooting outside of or inside of the enclosure. I never did, and never knowed any other guard to do it.
Q. You never knew of any guard shooting any fire arms during the period that you were there?
A. No, sir, I never did, not witnessed it or heard tell of it —not pointed a gun at anybody.
Q. And you knew nothing about a supposed attack on
1827 any of the camps around outside of the mines—about any guards going out and attacking a union camp.
A. No, sir, I never did, never heard tell of it at all in my experience there.
Q. You never participated in any such thing?

A. No, sir, I did not. In fact we worked in every possible way to avoid. That's why I sent for Mr. Slankard and cooperated with him. I didn't want anything to happen, because I knowed if it did we was simply powerless. We had no notion of doing it. We had every opportunity to do it. If we had ever raised a rifle that day it would be an end of us.

Mr. Hull: That's all, Mr. Covington."

Mr. Warrum: If the Court please, I will try to eliminate some of the cross-examination as I go along.

Mr. Hull: If Mr. Warrum will indicate by marks, because I think we will want the whole cross-examination.

Mr. Warrum: I will mark on the book with a pencil.

Mr. Warrum (reading):

"Q. Mr. Barnes, what is your occupation?

A. My occupation—well for the past twenty-three years I have been—my occupation for the past twenty-three years has been acting as police officer, chief of police, captain of police, captain of guards, and doing detective work, which is connected with my work all through.

Q. Are you a member of any detective agency?

A. Not at this time, no, sir.

Q. Were you at the time that you were sent to Prairie Creek, Arkansas, a member of any detective agency?

A. Yes, sir, I was.

Q. Name the agency?

1828 A. William J. Burns Detective Agency.

Q. At what particular point?

A. What is it, sir?

Q. At what particular point?

A. I worked out of Minneapolis, Minnesota. That was their headquarters. I had worked out of that office quite a while. In fact I was—

Q. How long were you a member of the Burns Detective Agency? A. How long at that time, when I went—

Q. Yes, sir.

A. Let's see—that was 1914. Well, I was somewheres around one year, as near as I can remember.

Q. About a year? A. Just about, yes, sir.

Q. Was that during the year 1914, or preceding that period?

A. Well, that would be a portion of 1913 and 1914, yes, sir, to make up that year.

Q. You say the William J. Burns Detective Agency?

A. Yes, sir.

Q. Is that the same Burns that was indicted in Atlanta here some time back in connection with the Leo Frank case? Is that the man?

A. I am not familiar with the case, sir. I can't say. I can't answer that question.

Q. Is there more than one William J. Burns Detective Agency? A. No, sir, not that I know of.

Q. Is he the William J. Burns that was fined here a while back for stealing a lot of papers out of some lawyer's office somewhere in Missouri? A. I never heard tell of it.

Q. You didn't read of it? A. No, sir, I did not.

Q. Where does he live? A. Who?

1829 Q. Burns.

A. William J. Burns? I don't know his place of residence, but I learned while working with him that his main office is in New York City. There are several offices in the principal cities of the world.

Q. Were you head of that particular branch of the Burns Agency at Minneapolis at the time you were sent to Prairie Creek, Arkansas? A. Was I what?

Q. Were you head of that branch? A. No, sir.

Q. Who was head of that branch at that time?

A. Managing the Minneapolis office?

Q. Yes, sir. A. Charles F. Trotter.

Q. Is he there now?

A. Well, I couldn't say, sir, if he is there now or not. I understand that he is managing that office. I don't know whether he is there now or not, at this particular time, I couldn't say.

Q. You say you were chief of police?

A. Yes, sir, I have been.

Q. At what place? A. Stillwater, Minnesota.

Q. Stillwater, Minnesota? A. Yes, sir.

Q. When were you chief of police, and how long?

A. I was connected with that department fourteen years. I was six years captain of police, and eight years chief of police in the City of Stillwater.

Q. What years did your employment as chief of police cover? A. What years?

Q. Yes, sir.

A. I left that department—let's see—I left that department four years ago this April. That would date back

1830 to 1913, wouldn't it—April, 1913? Well, for fourteen years, dating from that back.

Q. You were chief of police up to four years ago, during the eight years preceding the four years referred to?

A. Yes, sir.
Q. Were you ever chief of police in any other city other than Stillwater, Minnesota? A. No, sir.
Q. How long have you lived in Stillwater?
A. Nearly thirty-five years, or around thereabout. That is, I haven't lived there steady. My family has.
Q. Are you a native of that state?
A. I wasn't born in Minnesota, no, sir.
Q. Where were you born? A. I was born in Canada.
Q. Canada? A. Yes, sir.
Q. How long have you lived in the United States?
A. Well, between thirty-five and thirty-six years, around —thirty-five or thirty-six years.
Q. Preceding that period, from the time you were born in Canada, where did you live?
A. Previous to coming to the United States, to Minnesota?
Q. Coming to the United States—where did you live?
A. Where did I live?
Q. Yes, sir.
A. Why, my birthplace and home was Rishebuckto, New Brunswick.
Q. New Brunswick?
A. Yes, sir. My home was about twelve miles from that town. That was the nearest town.

* *

Q. Now, where were you stationed the first year of your service with the Burns Detective Agency?
1831 A. Calumet, Michigan.
Q. Where? A. Calumet, Michigan.
Q. Were you in Calumet, Michigan, in 1912?
A. In 1912?
Q. Yes.
A. No. I was with the Stillwater Police force in 1912.
Q. What years were you stationed at Calumet, Michigan?
A. Beginning with the year—let's see—the early part of 1913.
Q. 1913? A. Yes, sir.
Q. What were you doing up there?
A. I was there with a number of men from our agency at that time in that strike, the copper country strike. I was a body guard for James McNaughton, General Manager and Vice-President of the Calumet and Hekla Mine Company.
Q. Was any one killed at that strike?
A. I never seen any one killed. I heerd tell of a lot of them.
Q. Were you present when any one was shot?

A. No, sir, I never was.
Q. How long did you remain there?
A. Well, about five months. There was a lot of men killed during that five months, wasn't there?
A. I never seen any of them. I heered tell of a lot of them, if you allow me to say what I heard.
Q. You never saw? A. No, sir.
Q. You were never brought into court as a witness?
A. No, sir, never mixed up in any trouble.
Q. Was any man in your direct charge in your agency brought into court?
A. There wasn't any man under my charge.
Q. Were you under the direction of Burns himself?
1832 A. No, sir. I was under the direction of James McNaughton, under his orders, as his body guard, under his orders where to go and what to do.
Q. Did he request you personally to go, or were you sent by some one? This man McDutton, or whatever his name is—how do you spell that name?
A. McNaughton? How do I spell it?
Q. How is it spelled?
A. M-c-N-a-u-g-h-t-o-n is all I know.
Q. Did McNaughton have any other special agent of the Burns Detective Agency with him except you?
A. Any other special agent of the William J. Burns Detective Agency?" * * * * * * * * *

Mr. Warrum: Now, beginning on page 67. (Reading.)

"Q. Who paid you for your work done at Prairie Creek, Arkansas? A. Who paid me for my work?
Q. Yes.
A. I was paid from the Burns Detective Agency's office at Kansas City.
Q. Can you tell us why it is that the Burns Agency—Detective Agency—sent you to Prairie Creek, Arkansas, to take charge of what you say were the guards of the Bache-Denman Coal Company, and paid you for your services—can you tell us why that was?
A. Well, sir, the only thing that I can advise you in regard to that, the William J. Burns Agency, or the manager of the Minneapolis office, didn't send me there for that particular work. He sent me direct to Fort Smith to see Mr. Bache and Mr. Finley of the Bache-Denman Coal Company. He didn't know just exactly what they wanted me to do when I got there.
The only thing that he knowed was that I was wanted
1833 there to look after their mines and guard their property.

Q. And you landed there the latter part of March, 1914?
A. Yes, sir, I landed in Fort Smith about the first day of April, 1914.
Q. And then you went to Mine No. 4?
A. I had been to Mine No. 4 and around that vicinity twice before the first day of April. I went down there with Mr. Finley twice.
Q. Was any one with you besides Mr. Finley?
A. Mr. Cameron went there from Midland about three miles out. He had an office—
Q. Did they have guards on when you first arrived at Prairie Creek in 1914? A. Which?
Q. Did they have guards on at the mine when you first arrived in 1914? A. No, sir, They wasn't doing any work at the mine particular. There was only a few men.
Q. Did you select the guards that were placed on duty at the mines?
A. No, sir. I didn't select any of them at all.
Q. Did you know either one of them?
A. Just as I met them there inside of four or five days.
Q. You had never met them before?
A. No, sir. I did not.
Q. You didn't know who they were?
A. I just learned their names when they come there, and they mostly went by numbers.
Q. You numbered them up like—how did you number them? A. Well, they numbered them — they was numbered when they come there. They had a number.
1834 Q. What was Riley Bailey's number?
Mr. Bailey wasn't sent from the agency. There was only two men that had numbers that come from the Kansas City office.
Q. Who were they?
A. One fellow's name was Mr. Van Winkle—he had a number. I forget whether it was thirty or forty.
Q. You don't remember the other man's name?
A. No, sir, I can't recall it right now.
Q. When did they come to Prairie Creek?
A. They came — I think it was — well, there was three men had went with me there the first day that we went there to stay at this house that was rigged up for us. Mr. Van Winkle was one of the men.
Q. Who were the other two?
A. Well, one of the other two was this man I speak of that came with Mr. Van Winkle from Kansas City — I forget his name.

Q. You say they were from the agency? What do you mean by that?
A. From the agency's office at Kansas City.
Q. From what agency?
A. The Burns Detective Agency.
Q. Is that the same concern that you were sent down by?
A. Yes, sir.
Q. How long did those two men remain with you at Prairie Creek Arkansas?
A. They remained there until the 6th of April, until the evening of the 6th of April.
Q. They were there on the 6th of April A. Yes, sir.
Q. What were they doing?
A. They were doing guard work there. They were work-
at night guarding the —
1835 Q. They were sent there by the Burns Detective Agency?
A. They advised me that, yes, sir.
Q. Did you go down through Kansas City and carry them with you? A. No, sir, I did not.
Q. How long after you arrived at Arkansas — Fort Smith — before they reached there?
A. I believe I was there three days.
Q. Did you know they were coming?
A. I heard Mr. Bache say, or at least Mr. Finley advised me that he was having a couple or three men more come from the Kansas City Agency.
Q. Were they placed under your direct control?
A. Down at the Prairie Creek Mine?
Q. Yes, sir. A. Yes, sir.
Q. You assigned them then, and they were to carry out your orders? A. Yes, sir.
Q. Were you as particular about instructing these two men that came from Kansas City as you were about the other guards referred to in your direct examination?
A. Yes, sir.
Q. Did you call them all together and instruct them?
A. No, sir, I talked to them separately.
Q. You carried them off one at a time?
A. I went to them as they were on duty.
Q. You had a rifle, you say. What kind of a rifle did you use at Prairie Creek, Arkansas?
A. Well, I was given and carried — I believe it was a thirty-two, short, about that long — (indicating) — I believe about that long.

Q. What make? A. I forget what make it was.
1836 Q. A long range gun?
A. No, sir, it wasn't no long range gun.
Q. Did you have any long range guns there at that time?
A. I don't know of any, sir.
Q. Were you ever in the little office there that you referred to? A. At Mine No. 4?
Q. Yes, sir. A. Yes, sir.
Q. Did you examine the guns they had in the office.
A. The guns they had in the office?
Q. Yes, sir.
A. I didn't know of any guns they had in the office.
Q. Where did you get yours?
A. They brought it down — it was brought down.
Q. Who brought them?
A. They was brought down or shipped down by Mr. Finley or some other person.
Q. When you were off duty what did you do with your gun?
A. It was in this house.
Q. What house?
A. Where we stayed there, the guards at Mine No. 4
Q. Under whose control?
A. Well, — when I got through in the day, in the evening I generally stuck my rifle underneath the bed.
Q. Did each detective that you had there control his own gun and take care of it?
A. Now, sir, when you say detective, I don't know anybody [thee] was in the capacity of a detective. They were just plain guards.
Q. Does the Burns Detective Agency carry two men — two kinds of men in its office — in its association — men who act as guards?
A. Yes, sir, they carry many classes of them. Some
1837 men they have than can act as guards, that don't know anything about detective work.
Q. Then the two men that came from Kansas City was the ordinary guard that they sent out when called for?
A. As far as I know of. I never heard of them being detectives.
Q. Were you to do anything but guard down there? Were you to do any detective work? A. No, sir.
Q. You was just an ordinary guard when you went down there?
A. When I went there I was to do what Mr. Finley wanted done there. I hadn't taken up any particular duty until these men came—

Q. Yes, sir—go on.
A. Then I had charge of those guards.

* * * * * * * *

Q. Who did you get acquainted with in that particular vicinity?
A. Mr. Looper, Mr. Sylsberry, Mr. Looper's son.
Q. You didn't get acquainted with anybody outside of those who were employed at the mine, did you?
A. Well, no, not outside of the employes of the mine, not more than this man that called, that I thought was Breen, that called himself a deputy sheriff.
Q. That was on the morning of the sixth of April, was it, 1914? A. Yes, sir.
Q. About what time in the morning was it that Bill Bean came to you?
A. Somewheres around nine-thirty, to my best recollection.
Q. Did you see him any more after he left the mine that morning?
1838 A. I don't remember of seeing him any more. He might be, there, but I don't know.
Q. What direction did he go when he left the mine?
A. He went over towards the school house that I have spoken of.
Q. Was there any gathering at the school house at that time?
A. When he went over there.
Q. Yes, sir.
A. I don't recall seeing anybody at that time. About an hour after, probably.
Q. Then the parties you have named were the only parties that you are acquainted with.
A. Oh, I was acquainted with Mr. Slankard, and Mr. Baker, his deputy, and I hadn't met this Clint Burrows personally, but he was pointed out to me.
Q. You don't know now whether that was Clint Burrows that was pointed out to you, do you?
A. I know nothing more than that.
Q. How far away was he when Looper pointed him out to you?
A. He was about fifty or seventy feet, with two or three other men. Then I had seen the same man on different occasions, after that, and Mr. Bailey said he was acquainted with him, and every time he seen him come around he always called my attention to it.
Q. How many times was he around—

A. And then the cook that was there, I got acquainted with him. He lived somewhere near there. There was a man and his wife that cooked there.

Q. At the mine?

A. Yes, sir. I was acquainted with him. I think it was Smith—I'm not sure.

1839 Q. He was running the boarding house at that time?

A. This coal company was furnishing it.

Q. He was in charge of it?

A. This man, he was doing the cooking, was in charge of the cooking, and I was in charge of the guards in their department where they slept. This man and his wife looked after the beds and rooms.

Q. Mr. Barnes, where did you keep your ammunition?

A. We had very little ammunition. We had—I think we had a half a dozen cartridges, or something like that, outside of the few that we was provided with for the rifles.

Q. Did you have any six-shooters? A. What?

Q. Any pistols? A. Who?

Q. You guards, deputies, whatever you wish to call yourselves.

A. Yes, sir, I had a pistol in my grip.

Q. Did you carry it?

A. I didn't take it out or carry it. No, sir, I did not.

Q. Did any of the guards carry pistols while on duty?

A. There was one old gentleman sent down from Fort Smith by Mr. Bache. When he come there he had an old rusty forty-four, and I took it away from him, and I told him that he couldn't have it. He went and hid it until he was going away.

Q. How long did he remain there?

A. He remained there until—while—well, I believe he left Sunday, the fifth, previous to the day of the trouble.

Q. Did you have a guard on duty under you named Jim Prince, J. L. Prince?

A. No, sir, I can't remember. I can't remember the guards' names. They was only there two or three days.

Q. Did you have a large man, about six feet four
1840 inches high, weighed two hundred pounds, that they called Jim, on duty there?

A. I remember that description there. I don't think he was that tall. But I forget his name. He came down from Fort Smith.

Q. You didn't know at that time that he was an ex-convict? A. No, sir, I never heerd tell of it.

Q. Did you know Dan Decentis?

A. No, sir, I don't know of a man of that name. I know there was about three men there from Fort Smith. There was the tall man you described, and an old gentlemen—I think his name was Smith—I believe he had done police duty in Fort Smith, and one middle aged man from Fort Smith.

Q. Had J. R. Bailey, the man you referred to in your examination in chief, and referred to in cross-examination, had he been arrested on the charge of insulting a girl on the road from school and fined?

A. No, sir, I never heerd tell of it at all. He was with me there—I think he came there the second day. I think he was there with me about four days. He said his home was at Clarksville. He had a wife and family there, or something.

Q. Then what you have related in your examination in chief preceding the sixth day of April is all that occurred at the mine to your knowledge?

A. Well, all that I seen while I was there. I heerd of a lot of things. I can't tell that.

Q. You examined things pretty thoroughly, didn't you? You didn't sleep in the day time? A. Yes, sir.

Q. You have told all that occurred there as far as your knowledge goes?

A. I have told all I can recollect at this time. Of
1841 course it is three years ago—

Q. Can you say, or will you pretend to say, that the men around the mine there, those who were guarding at night, that they remained on duty all night?

A. Well, they went on at six o'clock in the evening, when we went off. There was some night—there was from three to four. Towards the last there were four.

Q. After you went home at night, Mr. Barnes, and went to bed, you didn't get up and go back and see what they were doing? A. No, sir.

Q. You don't know what they did between the time you went home and got down again in the morning?

A. I didn't see them. I got their report in the morning.

Q. I want to ask you if it isn't a fact that during the six days you remained there, every time a wagon went out from the mine, wasn't there two or three police fellows with guns on it? A. No, sir, that is not true.

Q. It isn't true? A. No, sir—

Q. I wish I had you for a witness in the contempt case we had down there.

A. No, sir, I would not allow it. I wouldn't allow one of them outside of the fence, even if some one was going to come up with a gun outside of the enclosure.

Q. You wouldn't have done that, you mean?

A. No, sir.
Q. Nobody came up with any gun, did they?
A. I wouldn't allow anything—
Q. Just answer that question. During the six days you were there, there wasn't anybody came up there with a gun was there?
A. I couldn't say there was.
1842 Q. You were on duty during the day and part of the night, weren't you, there? During the six days preceding, and on the sixth day of April, 1914, there wasn't anybody came there with a gun to your knowledge?
A. Outside of the employes of the mine and the guards?
Q. Yes. A. I couldn't say.
Q. Well, no one with any [rilfe] or shot gun.
A. I seen none.
Q. If he had a pistol you couldn't see it? You couldn't say?
A. No, sir, I couldn't say. Although I was told that about every other fellow carried a gun. This Mr. Looper's son acted as guard there for the company. He worked a spell of the day and a spell of the night, and he was quite friendly, he claimed, with a good many of the boys, of the miners there.
Q. Is the Burns Detective Agency paying you to come over here from Stillwater, Minnesota, to testify here today?
A. No, sir, they are not. I am not in their employ today, and have not been for seven months or better.
Q. Who is paying you?
A. Gosh, I don't know just yet. There hasn't been anybody paid me anything yet. I expect to get my expense, my railroad fare and subsistence, and a little expense and a little salary.
Q. At whose instance did you come here?
A. At whose instance?
Q. Yes, sir. A. The coal company.
Q. What coal company?
A. The Bache-Denman Company. Mr. C. H. Finley—
Q. You say your salary. How much is your salary?
A. I don't know. I don't know what I am going to get.
1843 Q. What do you mean by salary?
A. Well, it was you mentioned salary. Mr. Finley arranged with me to come here, and he said he would pay my expenses.
Q. I understood you to say, Mr. Barnes, in answer to my question, that you were to get your expenses, incidentals and salary.

A. Well, I'll just put it the way he advised me, that he would pay my expenses and pay me for the time that I lost going and coming, and while here. I don't know what he will pay—

Q. How far is it from the office of Childs and Childs, where you are now testifying, in the City of Chicago, to the City of Stillwater, Minnesota?

A. I couldn't answer that question.

Q. What is the railroad fare from Stillwater, Minnesota, to this place?

A. It cost me eleven dollars and twenty-nine cents."

Mr. Warrum: That concludes the cross-examination.

Mr. Hull: If the Court please, we desire to read the omitted portions of the cross-examination.

The Court: Proceed.

Mr. Hull: Reading first on page 44. The last question and answer read was "Why, my birthplace and home was Rishebuckto, New Brunswick. Q. New Brunswick? A. Yes, sir. My home was about twelve miles from that town. That was the nearest town." Now, the part omitted.

"Q. When did you leave there?

A. The date of the year?

Q. The year—what year?

A. I was about eighteen years of age—seventeen going on eighteen.

Q. Where did you go?

A. To Stillwater, Minnesota.

1844 Q. You went to Stillwater, Minnesota?

A. Yes, sir.

Q. What did you do after you reached Stillwater, Minnesota?

A. Immediately after that I hired out with a logging firm and went into the pineries.

Q. In what capacity did you work for the firm referred to?

A. Let's see—well, I worked at two different—I worked as an axe man and teamster.

Q. How long did you—

A. —and had charge of crews.

Q. How long did you work as axe man and teamster?

A. Oh, not very long—not over a couple of years, I don't think.

Q. Then you were in charge of what from that time on?

A. Well, for a few years after that I had charge of men in the lumbering—had charge of crews of men in different places.

Q. Engaged in the lumber business? A. Yes, sir.

Q. Were you the foreman of the men or—

A. Yes, sir, at different times.

Q. In what capacity did you work?

A. Foreman of the men, yes, sir. Probably a hundred or hundred and twenty-five men or so.

Q. How long did you have charge of men engaged in the lumber business after you reached Minnesota?

A. How long was I engaged in charge of men? Oh, somewheres around nine years.

Q. How old were you when you reached there?

A. Reached where?

Q. Stillwater, Minnesota.

A. Seventeen, going on eighteen, I believe.

1845 Q. And you worked at the lumber business for nine years?

A. I worked more than nine years. I was nine years as foreman. Those two years that I was an axe man and teaming. I worked other years in the lumber business besides that.

Q. That would make you eleven years that you were engaged in the —

A. At that particular work.

Q. In that particular work? A. Yes, sir.

Q. Now, what did you do after you went out of the management of men in the lumber business?

A. What did I do after that?

Q. Yes, sir.

A. Well, that was the last work I done, was handling men for four or five months in the lumber woods. I went direct from that on to the Stillwater police force.

Q. As a patrol man — did you go on the police force in Stillwater as a patrol man or chief of police?

A. Captain of police.

Q. Night captain or day captain? A. Night captain.

Q. How long did you work in that capacity?

A. Six years.

Q. Six years? A. Yes, sir.

Q. What did you do then?

A. I was appointed chief of police of the department.

Q. And you held the chief of police job for how long?

A. Eight years.

Q. After you left that job — or did you you leave it?

A. Yes, sir — yes, sir.

Q. Voluntarily? A. Voluntarily.
Q. Yes, sir.
A. Partly, yes, sir. It was a political affair in a way.
1846 Q. Political?
A. Yes, sir I had worked under two or three different administrations. I went out of there —it was —I went out all right.
Q. Who succeeded you as chief of police at Stillwater?
A. A captain, a man by the name of McNaughton.
Q. Is he alive now? A. Yes, sir.
Q. Where? A. In Stillwater.
Q. When were you made a citizen of the United States, and where?
A. Well, I can't tell you just when. I know it was several years before I went on the police force at Stillwater. I had my papers taken out there at the court house in Washington County, Minnesota — in the County Seat.
Q. Is Stillwater the County Seat of Washington County?
A. Yes, sir.
Q. Have you a federal court at that place?
A. Not a Federal court, no, sir.
Q. What is the name of the court in which you took out your citizenship papers?
A. Well, it is in the District Court. I forget the judicial district that is now.
Q. Who was judge of that court at the time you received your papers?
A. Who was judge I don't know. I just know the clerk. I don't know the judge. A man by the name of Clifton Bennett was the clerk of the court.
Q. Now, after you went out of [iffice] as chief of police at Stillwater, Minnesota, what did you — what occupation did you have following that, immediately following that?
A. Immediately following that I went into the special
1847 agent's department of the Omaha Railroad — St. Paul.
Q. At St. Paul? A. Yes, sir.
Q. Were you stationed at St. Paul—was that your headquarters?
A. Yes, sir.
Q. How long were you in the employ of that railroad?
A. Between sixty and ninety days.
Q. Did you quit? A. Yes, sir.
Q. Voluntarily A. Yes, sir. I put in my resignation.
Q. Was it requested by the railroad? A. No, sir.
Q. Was it requested by the man in charge of the special agents of that railroad?

A. I was the man in charge. I was the chief special agent.

Q. You were chief special agent? A. Yes, sir.

Q. And you voluntarily went out of the employment?

A. Yes, sir. I went with William J. Burns because I was offered more wages, nearly double what I was getting.

Q. You went then direct into the William J. Burns Detective Agency? A. Yes, sir.

Q. And up to and including the time — from that date up to and including the time that you were at Prairie Creek in charge of the guards, at what you say was the Bache-Denman Mine, you were an employe of the Burns Detective Agency, were you?

A. When I was sent to this mine?

Q. Yes, sir.

A. Yes, sir, I was sent from the Minneapolis office of the Burns Detective Agency to these people, to the Bache-Denman Coal Company. They advised me where I was going.

Q. What division of the railroad did you have under your charge when you were made the chief of special agents?

A. No particular division.

1848 Q. The entire system? A. Oh, no, sir.

Q. Well, what territory, particular territory were you supposed to cover, and did you cover?

A. Well, I wasn't much further out of St. Paul than probably fifty miles or something like that. There was plenty of work for me right in the immediate vicinity of St. Paul and Minneapolis."

Mr. Hull: Beginning on page 50, — you read I believe on page 50?

Mr. Warrum: I read what I thought was a proper cross-examination.

The Court: Your judgment, however, does not bind plaintiffs, proceed.

Mr. Hull (reading):

A. Any other special agent of the William J. Burns Detective Agency?

Q. Yes, except you.

A. The Detective Agency has no special agents.

Q. Was there any other detective that belongs to the Burns Agency with you guarding this man.

A. Yes, sir. There was one other man with me for a while.

Q. Who was he? A. His name was Kelly.

Q. Kelly?
A. Yes, sir, He was only a little while there, probably six weeks with me in that particular work.
Q. Was there any of your crowd arrested while that matter was going on, by the authorities?
A. I never heerd tell of any never knowed of any, never seen anybody arrested, no, sir.
Q. You remained with McNaughton five months, I believe you said? A. About that, yes, sir.
1849 Q. Then where did you go? A. Minneapolis.
Q. In what capacity?
A. I went back to work for the agency at whatever work they assigned me to.
Q. What did you to at Minneapolis?
A. At Minneapolis I mostly worked on the American Bankers work—forgery—that was my work in Minneapolis.
Q. On what bank?
A. Any bank that was a member of the American Bankers Association, where there was any work to be done.
Q. Were your operations confined solely to Minneapolis?
A. No, sir.
Q. Where did you go? What other places did you visit?
A. Well, sir, it would take me a long time to tell you what other places I visited besides Minneapolis. I can't remember them.
Q. What particular case or cases did you run down during the time that you were working for the American Bankers Association as special agent of the Burns Detective Agency?
A. What cases had I worked on?
Q. Yes, sir.
A. I can't remember the cases. I might remember a few, probably.
Q. Name some one.
A. Well, I believe the first one I worked on when I came from the copper country was the case of A. C. Nelson, who had defrauded a bank at Owatonna, Minnesota, of some two or three thousand dollars.
Q. Can you name any other case?
A. Oh, I can name several, but it is hard to recollect. Our cases all went by numbers.
1850 This particular Nelson case, what did you do with Nelson?
A. I went through all the particulars of the case as best I could tracing his movements and his work and so on.
Q. What became of Nelson?
A. I don't know. I never seen him or heerd tell of him again.

Q. You never caught him?
A. No, sir, they never caught him that I know of.
Q. How long did you work in that capacity?
A. Which capacity?
Q. With the American Bankers Association as a member of the Burns Detective Agency?
A. That was a portion of my work.
Q. What else did you do?
A. Well, I done a good deal of guard work for them, handling guards around Minneapolis at different times. There would be trouble where they would be called on to furnish men.
Q. Have you ever testified in any case before?
A. Any case.
Q. Any case before this one?
A. Of what nature do you mean?
Q. Of any nature, criminal or civil.
A. Oh, yes, sir. When I was connected with the police department, in the muncipal court—drunkness, assault and battery, and so on."
1851 Q. Since you went with the Burns Detective Agency have you testified in any criminal or civil cases for them?
A. Let me see—I believe there was only one that I have any recollection of being called into.
Q. Was it a civil or criminal case? A. Criminal.
Q. Where? A. Minneapolis.
Q. What was the man charged with?
A. He was charged with stealing underwear from the Northwestern Knitting Company in Minneapolis.
Q. What was his name?
A. I forget his name. There was four or five young fellows in it that had been working in this plant and had carried stuff out with them.
Q. When was he tried? In what year?
A. I attended this case as a witness, which I believe was settled by their fathers or something—that's about,—
Q. Then you didn't testify in it?
A. Yes, sir, I give evidence.
Q. Before what court? What were you doing testifying when the case was settled without trial.
A. It wasn't settled—after that I believe the case was settled. I heerd after that the case was settled—yes. That is about a year and a half ago, as near as I can remember.
Q. Oh, that is since you returned to Minnesota from Prairie Creek? A. Oh, yes, yes, sir.

Q. Are you with the Burns Detective Agency now?
A. Not at present, no, sir.
Q. When did you go out of their employ, out of the employ of the agency?
A. Well, I haven't really left their employment for good, but I haven't been employed by them for the past seven
1852 months. But I expect to return to them.
Q. When?
A. Well, sir, I just left their employ about seven months ago, and I went out for them then to make an investigation.
Q. What have you been doing for the past seven months?
A. For the past seven months I have been working as assistant deputy warden at the Bismarck penitentiary. I went there to make an investigation for the agency, and I worked for them since then.
Q. What penitentiary is that??
A. The North Dakota State Penitentiary.
Q. North Dakota? A. Yes, sir."

The Court: Did either of the counsel in this case make this record?

Mr. Hull: Senator Covington cross-examined the witness.

The Court: This has nothing to do with the issues involved here in this case. I recognize of course that if plaintiffs or defendants make a record and the other party does not make any objection, it can perhaps go in.

Mr. Drinker: We think, without arguing it before the jury, that this is material.

The Court: It taxes the ingenuity of the court to see how it is material or relevant.

Mr. Warrum: If your Honor please, you misunderstood the statement I made a while ago, and took it in the wrong light, when I undertook to eliminate those things. I suppose when it was introduced, it all went in. The agreement was, in taking all of these depositions, that the objections should be made here.

1853 The Court: Of course, you cannot object to your own record. You can not ask a question and then object to it. That is the position you are in here now.

Mr. Neal: They are reading it.

The Court: Yes, they are reading the record you made.

Mr. Hull: I will omit some of it. But there was redirect examination based on some of this, that we consider material. I will try to omit some of this.

The Court: Proceed in your own way.

Q. You went to North Dakota seven months ago and were employed as a warden at that penitentiary?
A. No, sir.
Q. Is that the truth?
A. No, sir, absolutely no.
Q. In what capacity did you work at the peniteniary?
A. I worked there about thirty days as an investigator.
Q. Investigator of what?
A. Of the escape of criminals, convicts, from the penitentiary, to find out if they had help from the outside. About twenty or thirty of them left.
Q. Did you go there on your own initiative, or were you sent?
A. I was sent by the Burns Detective Agency, and when I got through the Warden of the penitentiary got me to stay with him a few months until just recently.
Q. How long did you act in the capacity of agent of the Burns Detective Agency in this place?
A. About thirty days.
Q. About thirty days? A. Yes, sir.
Q. Then what did you do after that?
A. For two months after that I was employed as
1854 chief keeper.
Q. Chief keeper? A. Yes, sir.
Q. What were your duties?
A. My duties was to look after every cell house and the inside yard where the buildings were constructed, where the men was at work, and look around the walls—
Q. How much were you paid for that service every month?
A. Well, my wages came to about a hundred and fifteen dollars a month, with board and room and lodging and washing and mending and repairing.
Q. What salary did you receive?
A. About a hundred and fifteen a month.
Q. Was that in straight salary, or did that include your board?
A. No, that was straight salary—board and room and everything else was clear.
Q. How long did you draw a hundred and fifteen a month from the State of North [Damota] for your services at that penitentiary A. About five months.
Q. Five months? A. Yes, sir.

Q. Were you a citizen of North Dakota?
A. No, sir, you got to be there a year I understand before you can be a citizen.
Q. How long had you been there when they employed you in the capacity that you have stated?
A. Well, I was there thirty days. They employed me almost two months as chief keeper. I was appointed after that as assisant deputy warden for the time I was going to stay there. The warden appointed me to give this five months' salary, because he was well satisfied with my work.
Q. Yes, sir. By whom were you appointed deputy warden? A. By the warden of the penitentiary.
1855 Q. While you were there in that capacity did you draw any money from any other source?
A. No, sir, I did not.
Q. Did you go out of the employ of the Burns Detcctive Agency during this period?
A. Well, after I was through with this invesigation they permitted me to do that, because this warden wanted to keep me there, and had made arrangements with them. They was willing I should do that of my own accord.
Q. Did you make a report of your findings at that institution to any one, and if so, to whom?
A. I did for the thirty days I was investigating there, yes, sir.
Q. To whom did you report?
A. To the William J. Burns Office.
Q. Where? A. At St. Paul.
Q. Who was in charge of it at that time?
A. H. K. Jones.
Q. Where is he now?
A. I believe he is in charge of the same office now at that point.
Q. Have you a copy of that report?
A. I don't keep any copies of any reports, no, sir.
Q. How often did you report during the thirty days?
A. Once a day.
Q. What was your particular mission there?
A. Where?
Q. Will you state your particular mission there so I can understand it?
A. I will. All right, sir. I was sent there by the William J. Burns Detective Agency from the St. Paul office as an investigator for thirty days.
Q. Yes, to invesigate what?
A. To invesigate the many escapes that had been participated in at the penitentiary about five weeks previous to

that, to find out whether the inmates had help from on
1856 the outside, or whether it was guards and officials on the inside, on account of so many men getting away, The Board of Control employed the agency to send an investitigator for that purpose."

Mr. Hull: I will try and skip over some of this, on pages 61 and 62.

Q. Outside of the Calumet, Michigan, and Prairie Creek, Arkansas, affairs, have you ever acted in the capacity of guard, and had in charge guards at any of these places where they have labor troubles?

A. The A. R. U. strike—I worked as deputy United States Marshal.

Q. At what point?

A. At several points between St. Paul and Fargo and East Grand Forkes and Grand Forks—different points along the line.

Q. By whom were you appointed?

A. Appointed by J. Adam, Bede United States Marshal.

Q. From whom did you draw your pay?

A. From the United States Marshal's office.

Q. Who paid you? A. I forget who paid me.

Q. Didn't the railroad pay you?

A. I received my pay at the U. S. Marshal's office.

Q. You received your pay at the U. S. Marshal's office, but isn't it a fact that the railroad company paid you for your services?

A. By gosh, I can't tell you where the money came from

Q. You don't know?

A. I know I got it at the U. S. Marshal's office.

Q. You made no inquiry as to where they got it?

1857 A. No, sir, it wasn't necessary.

Q. Did you make application to the Marshal for a job?

A. No, sir, I did not.

Q. Who made application for you?

A. Nobody that I know of. There was a man picked me up at Stiliwater.

Q. Who was that man? A. Mat Shortall.

Q. Who was he?

A. He used to be a former chief of police at Stillwater many years ago. He is dead now, some ten or twelve years.

Q. What was he doing at that time?

A. He was a deputy U. S. Marshal under J. Adam Bede.

Q. How long did you work in that capacity?

A. Well, I think it was somewheres around—some time in July, around there, until the latter part of November—pretty

nearly all that summer of 1894. I just forget the number of days.

Q. Is that the only strike outside of the two [herefore] mentioned? The only labor trouble in which you have participated as officer and strike breaker?

A. I never was employed as strike breaker. I was protecting property and guarding it from being destroyed, but I never worked as a strike breaker.

Q. I didn't mean to say that you worked, but wasn't that your occupation? A. No, sir, I wouldn't do it.

Q. When you went out as special agent of the Burns Detective Agency you weren't engaged in that business?

A. As strike breaker?

Q. Yes, sir.

[Q.] No, sir, I never was. I never knew them to do it.

Q. You say you wouldn't work at it, didn't you?

1858 A. Yes, sir.

Q. But you never helped the other side in all your natural life? A. I had enough to do—

Q. You never took the side of the laboring man from the time you went into the business as a chief of police?

A. Yes, sir. I was good to the laboring man during the time I was chief of police in Stillwater. I have a copy of the record showing I got them many jobs.

Q. Would you furnish us a copy of the record showing your record as a friend of the laboring man?

A. I have got records to show any one that wants to see them in regard to my character, and what the citizens of the City of Stillwater and the surrounding country knowed of my doing, and what they thought of me and my work.

Q. You may have that, but that is not what I am asking about?

A. Oh, I haven't any records showing—it was never necessary—if I got a man a job or saved him paying a fine when he had a family it was never necessary to get a receipt from him.

Q. Have you ever worked for any particular organized body of men, organized laborers? A. Worked for them?

Q. Yes, sir.

A. No, sir, not that I know of. In what capacity do you mean?

Q. In any capacity.

A. For an organized body of laborers?

Q. Yes, sir.

Mr. Hull: You mean for organized labor, don't you?

Q. I mean just what I say.

A. Worked for them in any capacity?

Q. Yes, sir.

A. I have worked with them. I have always worked
1859 for the man that employed them and worked with them.

Q. Have you ever been employed by any one connected with any labor organization to perform any work for that particular organization? A. No, sir. Now I got you, no.

Q. All of your work has been on the other side of the question, hasn't it? A. All of my work.

Q. Yes, sir, as detective?

A. Public safety work, in all my experience, protecting property.

Q. Protecting property?

A. With the exception of work I [dont] for the Burns Detective Agency. There was a great deal of that work of the same nature. Outside of doing this work for the American Bankers Association, forgery, and so on."

Mr. Hull: Being asked what the railroad fare from Stillwater, Minnesota, was, he testified as follows:

"A. It cost me eleven dollars and twenty-nine cents.

Q. Is it three cents per mile or two cents?

A. I don't know what it is. That is what I paid yesterday afternoon in the Union Depot at Stillwater.

Q. Are you preparing to leave Stillwater to go West?

A. No, sir, I hadn't thought of it.

Q. Do you know why, then, they were in such a hurry to take your deposition that they brought you over here to Chicago?

A. I don't know whether they got me in a hurry or not. They have been communicating with me, and I told them I was taking a vacation, and was just getting over the grippe, and when I got through I intended to go to work.

Q. How long have you been back in Stillwater from North Dakota? A. Since the second or third of this month.

Q. Then you were in communication with Mr. C. H.
1860 Finley in reference to this matter from North Dakota, were you? A. Not from North Dakota, no, sir.

Q. After you returned to your home?

A. I had a letter from Mr. Bache when I was in North Dakota, I think it was a month previous to my going home.

Q. You received a letter from Franklin Bache?

A. Yes, sir.

Q. Is that the Bache that is the head of the Bache-Denman Coal Company?

A. It was just a few lines in regard to taking my testimony any time I might be in St. Paul. I never answered that letter.

Q. Did you quit the penitentiary in North Dakota voluntarily?

A. Yes, sir. My time was up—as long as I was going to stay there.

Q. Did you put any of the officers out there in the penitentiary for permitting the escapes, or anything else?

A. Did I what, sir?

Q. Did you get sufficient evidence against them to put them in the penitentiary? A. No, sir.

Q. You got no information at all in reference to it, then, to amount to anything, did you?

A. I could give you a lot of information, but it wouldn't put anybody in the penitentiary.

Q. Did you ever catch anybody at all that had been charged with crime since you have been in the detective business?

A. Oh, occasionally, yes, sir.

Q. Name one or two of them?

A. One or two. Well, John Connelly is one.

Q. Who is John Connelly, and where does he live?

A. Well, sir, I don't know where he lives now. At that time he was a resident of New York City, of what they
1861 call the Bowery Gang. That is, he represented himself—

Q. Did you go to New York City to catch him?

A. Oh, no.

Q. Where did you catch him? A. In Stillwater.

Q. Stillwater? When?

A. The ninth of February, or tenth of February, in 1909, I think it was.

Q. What did you do with him?

A. What did I do with him?

Q. Yes.

A. I turned him over [—] the sheriff shortly after I arrested him.

Q. That was while you were chief of police, wasn't it?

A. Yes, sir.

Q. You have never caught anybody at all since you went with the Burns Detective Agency, have you?

A. Not very many.

Q. Have you caught anybody that has been charged with crime at all?

A. Well, I don't know whether I have or not. My work is mostly been investigations, and if there was anybody to be caught in regard to that I wouldn't catch them.

Q. Well, has anybody been caught as a result of your investigations? A. Yes, sir.

Q. Who and where?

A. Well, I can't just remember now the names of persons.

Q. Could you give us some idea where one of them was located?

A. Well, there was one man caught in Long Branch, New Jersey, that got away from them. That was the second man. You asked me for one or two. There was another, Isadore Ginseler. I located him in San Francisco, and I located him again in Long Branch, New Jersey, and he got away from the police there.

Q. He was a right slippery fellow, wasn't he, to get away from the San Francisco police and the New Jersey police too. Where did he commit his crime?

A. Elgin, North Dakota.

1862 Q. Were you sent to Elgin, North Dakota, to look after this particular criminal?

A. No, sir, he wasn't there then. He was supposed to be somewheres in the West.

Q. What was that man's name, that Bowery man?

A. John Connelly. That was one of his names.

Q. Was that the name under which he was going at the time that you got after him? A. Yes sir.

Q. Where did you first strike his trial? A. Stillwater.

Q. Where did you catch him?

A. On a street car leaving the city.

Q. What did you do with him?

A. He was locked up shortly after he was taken off the street car, in the city jail.

Q. How long did he remain in jail? A. About two days.

Q. Where did he go to from there?

A. He had a hearing in the Municipal Court, and was bound over to the grand jury and put in the county jail.

Q. What became of him then?

A. He served a term in the Minnesota states prison.

Q. For this particular offense?

A. For attempted forgery, yes, sir.

Q. That was the offense he was charged with when you arrested him? A. Yes, sir.

Q. That was while you were chief of police, wasn't it?

A. Yes, sir.

Q. Then you haven't arrested anybody since you have been with the Burns Detective Agency, have you?

A. No, sir, I haven't picked up anybody personally or made arrests on the street myself.

Q. Have you had anybody else to make any arrests?

1863 A. I have not. The management of the office probably through my investigations and reports might have.

There might be ten or fifty. They don't tell me. It is none of my business, and I daren't ask them.

Q. When you went to the penitentiary in North Dakota to make the investigation you referred to, did they turn you in among the convicts? Were you permitted to go in among them? A. Yes, sir.

Q. Were you dressed in citizen's clothes? A. Yes, sir.

Q. Were you ever at any time dressed in any other kind of clothes when you went among them? A. No, sir.

Q. Were you with them in the day time or the night?

A. Both.

Q. Did you pose as a convict? A. No, sir.

Q. You did not? A. No, sir.

Q. Did you give them to understand that you were imprisoned? A. Who?

Q. You. Did you give the convicts to understand that you were in prison there the same as they were?

A. I couldn't do that.

Q. Why?

A. Because a man that ain't sentenced and convicted to the penitentiary cannot go in there and pose to the convicts as a prisoner.

Q. Did you tell those convicts that you were there for safekeeping and awaiting your trial?

A. I told them nothing of the kind, no, sir.

Q. Did you tell them who you were? A. They knew that.

Q. How did they find it out?

A. The warden and the deputy warden advised them. They knew who I was.

Q. They knew what you were there for? A. No, sir.

1864 Q. Did they know you were a detective?

A. Well, it was learned after that they had heerd I was.

Q. Then the warden and the deputy warden didn't tell them that, did they?—What name did you go under there?

A. I have only one name, the name I am under here.

Q. Were you introduced to the convicts as Mr. Barnes?

A. No, sir, I was not.

Q. What name were you introduced under?

A. I wasn't introduced under any name.

Q. Weren't you? A. It ain't necessary to do that.

Q. How were you paid for your services in North Dakota at that penitentiary, by check or in cash?

A. Sometimes by check and sometimes by cash.

Q. Who drew the checks in payment of your services?

A. Who drew them?

Q. Yes, sir.

A. I was handed my check when I got—I got a check from the office.

Q. What office? A. The office of the penitentiary.

Q. The clerk of the penitentiary gave you your check?

A. The warden's secretary.

Q. What was his name? A. W. H. Ferry.

Q. Mr. Barnes, if your railroad fare and expenses and compensation for the time you may lose is tendered you, will you come to Fort Smith, Sebastian County, Arkansas, in the United States District Court for the Western District of that state, and testify when this case comes up for trial?

A. I don't know whether I will or not.

Q. Why not?

A. Because I couldn't answer that question. I don't know whether that trial—when that trial will be, nor I don't know where I will be, and I don't know whether I will be
1865 living or dead.

Q. Well, assuming that you will not be dead, and that you will not be busy running down criminals over the country, would you come then and testify if these expenses were tendered you in cash?

A. My expenses—if my expenses and time was paid?

Q. Yes, sir.

A. And as much as I can earn anywhere else, I might, and I might not go unless I was subpoenaed at that, because I might be engaged so that if I did that I would lost my position, and I couldn't afford to go.

Q. You understand that you could not be forced under the law to go to Arkansas to testify, you understand that, don't you? A. I don't know, I couldn't say so.

Q. You don't know that? A. No.

Q. You have been in the detective business as long as you have, and don't know that they cannot force you to go from Minnesota to Arkansas to testify in any court?

A. I guess they could, the United States.

Q. You knew they couldn't force you to come over here. They didn't subpoena you to come here, did they?

A. If I had been engaged in steady work now I wouldn't have come unless I had to come.

Q. You aren't doing anything now? A. Right now?

Q. Yes, sir. [Q.] You know what I am doing right now.

Q. You know what I mean. You're not dull at all.

A. I have to keep working.

Q. What were you working at when you were invited to come here to testify? A. I was home.

Q. What were you doing? A. I was home sick.
1866 Q. How long have you been sick?
A. I told you I come home the second or third of April—
Q. Have you been sick ever since you came home?
A. Yes, sir.
Q. Have you anything in view?
A. Oh, yes. As I said, I can go back with the Burns Agency any time I want to.
Q. I am sure of that.
A. The time I have been home sick I have had five telephone calls from the Twin Cities to handle guards to look after bridges and property.
Q. At the time they asked you to come here you were not engaged in any business, were you?
A. When I come here?
Q. Yes, sir.
A. I was home sick. If I hadn't been I would have been working.
Q. At what?
A. I can't say just now. I can go right back with the Burns Agency when I go home. Or I could have went to the Sheriff's office in St. Paul or Minneapolis, Hennepin or Ramsey, and went to work handling guards.
Q. Handling guards for whom, for what corporation?
A. For the Sheriff's office, or possibly from the Burns Agency. They are calling for men all the time, and can't get them, men that understands hauling guards and protecting property. If I was well and there now I could get probably eight dollars a day.
Q. Well, when this case comes up for trial, and you are not engaged handling guards or pursuing criminals, would you then come to Arkansas and testify upon receiving what you would consider a just compensation for the time that you might lose, your expense, incidentals, and so forth.
A. Well, I can't answer that question now. If it would
1867 be possible at the time that that trial might come off, that I wouldn't be engaged and would be out of work, which I don't expect to be, and don't figure on it, but providing it would be that way, and I needed to earn something for my time going and coming, and my expense, which would mean something for me, why, I would go certainly. Now, then, if I am engaged working by the month at a good salary, or by the day, which might mean several years' work for me, if I jump up and leave there for a week it would lose me my job, I wouldn't go.

Q. If a subpoena was issued from the court and sent to wherever you were, would you then go?"

"The Witness: Might I ask a question?

Q. You understood my question a minute ago, Mr. Barnes?
A. I thoroughly understood it. Would you permit me to ask you a question.
Q. I am not testifying. I don't want it in the record.
A. You asked me if I wasn't engaged and I was subpoenaed by the proper court, the United States Court, to go to Fort Smith to testify, and money tendered me, what would I do. Now, you say that if I was subponaed — you know as well as I do if I was subpoenaed and compelled to go to Fort Smith there would be no money tendered me only just my—you know as well as I do that the United States Marshal's office that would serve the subpoena wouldn't give you any money. You'd have to furnish your own money to go. How could I answer that question? You know that money would be tendered me. I couldn't ask for it. I must go.
Q. That's true in a criminal case, they wouldn't have to furnish you the money. This being a civil case you can demand your pay even if you live in the State. You
1868 said at the outset that you might have to be subpoenaed. Do you mean to say that you would have to be subpoenaed by a court that could compel your attendance in the event you refused.
A. If anybody wanted me to testify and I was subpoenaed by a United States Marshal I would have to go.
Q. Anywhere in the United States—Is that the way you understand it?
A. If the United States Marshal subpoenaed me to the place named I would have to go."

Mr. Hull (reading):

Redirect Examination

By Mr. Hull:
Q. You have spoken of your family, Mr. Barnes. What family have you?
A. Wife and five children.
Q. Where are they living? A. Stillwater, Minnesota.
Q. Are you living with them?
A. Yes, sir, when I am at home.
Q. You have spoken also on cross-examination of certain records, as you call them, that would show your good character. Have you any such records?
A. Yes, sir, I have the best, couldn't be better.
Q. Have you any with you?

Q. I have got something to show for every place I have worked the last twenty-three or four years.
Q. Have you them here? A. Not here.
Q. Have you them with you in Chicago?
A. Yes, sir, in my grip.
Q. Where is your grip?
A. At the Lasalle Hotel. I have a letter of recommendation —
[—]

A. I want to say that I can give the best references
1869 and furnish the best records, as good as any man that has worked in the capacity I have worked for the past twenty-three years. I can give you the names that you can write to any man in any profession or walk of life in any city that I have ever performed any duty in —bankers, lawyers, doctors, mayors of cities.

Mr. Covington: If you come to Fort Smith will you bring some of them with you to testify?

A. What do you know about that? Will I bring somebody with me, when I go. Some of them would want a lot of money, I think, unless they was subpoenaed. But they'll write you the letters.
Q. Will you name any one that you care to who can give satisfactory evidence as to your character and reputation?
A. Yes, sir, I will give any names.
Q. Well, will you name one person?
A. One wouldn't be much good.
Q. Please name two or three men to whom you would like to refer as to your —
A. In my home town, Stillwater?
Q. If that is where you lived for the greater part of your lift, yes sir.
A. Well, you can write to Henry Wolfer, ex-warden of the Minnesota State Penitentiary, considered one of the best wardens in the world.
Q. Are there any others?
A. I will give you our present mayor of the City of Stillwater, Jacob R. Kalliner. I never worked under him, and don't want to, because I can do better, but he will give you anything you want.
Q. Are there any others to whom you wish to refer?

1870 A. R. S. Davis, president of the First National Bank, City of Stillwater.

Q. Are there any further questions?
A. That is only one place. I can go to any place I ever worked.

Mr. Hull: It is understood that a signature is waived?

Mr. Covington: Yes, sir.

It is understood that a signature to this deposition is waived."

The Court: The Court suggests that where one takes a deposition and reads it in evidence, and if the other side cross-examines and counsel wants to read the cross-examination, the court will not question the relevancy or materiality of omitted portions, but that rule will have to be modified, where there is so much that is irrelevant in it, and I will hear either side at any time on the question. I do not mean this is to change what has already been done.

Mr. Warrum: We are ready to admit that the court has control over it, even if there is no objection.

Mr. Hull: The character and motives and intent of this man Barnes are in question, and it has been harped on to this jury time and time again, that Barnes is a Burn's detective.

The Court: I do not think there is anything in that part of the deposition, that has now been read, that could make it, by any stretch of the imagination, relevant or material to any issue in the case.

Mr. Hull: The fact that counsel on the other side spent two or three hours trying to shake this man, if they had found
1871 anything that would reflect upon his character or his actions, they would have read that part of the cross-examination. This is the only place it will happen, your Honor.

The Court: While possibly the suggestion you make may, as to this witness, become material in the argument to the jury, yet there is little in the cross-examination read by plaintiffs that would be relevant.

1872 JOHN THOMAS ALLISON, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. What is your name? A. John Thomas Allison.

Q. Where do you live, Mr. Allison?

A. A mile northeast of Clarksville, Arkansas.

Q. Please talk up, Mr. Allison. You are used to commanding men in the mines, and I want you to talk so that everyone can hear you. Where did you say you lived?
A. A mile northeast of Clarksville.
Q. How long have you worked there?
A. I am not working there; I am living there.
Q. Where are you working?
A. For the Fern Wood Mining Company No. 2, located at Montana, No. 2 Mine.
Q. How long have you lived in that part of the country?
A. About five years.
Q. Where did you live before that?
A. At Tulsa, Oklahoma.
Q. Were you born there? A. No, sir.
Q. Where were you born?
A. In the County of Durham, England, across the Atlantic.
Q. In the spring of 1914, in the month of June, did you go to work for the Bache-Denman Coal Company?
A. Yes.
Q. Do you remember the date?
A. No, sir, I can't tell the date I went up there.
Q. Was it during the first of June?
A. Yes, sir, some time in June. It was pretty nice weather to work when I went up there.
1873 Q. What were you engaged to do?
A. I was engaged to do machine work at that time.
Q. Do you remember the time you went down there for the first time?
A. Yes, sir, I went on the ten minutes after 4:00 train.
Q. You went on the 4:10 train?
A. Yes, it starts ten minutes past four in the evening.
Q. From Fort Smith? A. Yes, from Fort Smith.
Q. Will you state to the court and jury what occurred on that train.
A. Well, we got on the train and nothing happened, for awhile, and I don't know exactly where it was, but the first thing was said, some of the boys said, "Is that the conductor? And the conductor turned around and said, "Yes, and no God damned scab either." And the boys laughed about it. On the ride I noticed a gentleman come through the train—he passed through the train once or twice and looked suspicious at us and when we got to Greenwood he came in with two or three gentlemen—he brought two gentlemen on and he said "That is the one with the blue suit on". And he pointed to me.
Q. Did you know who he was?

A. When I testified before I identified him on the stand and the name was Irvin or Irwin, or something like that, I think. He was said to be a justice of the peace of Greenwood.

Q. What did he say?

A. He said, "That is the one with the blue coat on". And I looked around to see if there was anybody with a blue coat on, and I didn't see anybody and he said, "That is the son-of-a-bitch over there, he has got a gun", and he came over and said, "We will have to search you", and I said, "No, you won't search me" and he said, "The son-of-a-bitch, you won't search me" and he said, "The son-of-a-bitch, he
he has got a gun, I seen him with it". And I said "No,
1874 damn you, you never saw me before" and someone else said, "You better search him, there is a mob there".

Q. Did he search you?

A. Yes, they both searched me.

Q. Did they find a gun on you?

A. No, sir, they didn't find any gun on me. He said "This is the son-of-a-bitch, I saw a gun on him", and I said, "I haven't got any gun on me, you never saw any gun on me. You don't know who I am". And he said, "You will never get to Prairie Creek." And I said, "I am going there". "We will put the son-of-a-bitch off."

Q. When you got to Midland, what did you do?

A. Before we got to Midland they stopped the train, I don't know whether they threw it off of the track or not, but they put the brakes on, and it threw us out of the seats. There were a lot of them there, and they said, "Come look at the scabs on exhibition", and they promenaded around the coach.

We got into the Midland depot with a big mob outside and Slankard got on the train.

Q. Who was Slankard?

A. A constable down there at that time; and he got on the train and he and another fellow got in the coach and were promenading up and down on the train and when we got between Midland and Prairie Creek Slankard said, "We will search you", and I said, "I haven't been searched yet," and I said, "Where is your authority?", And he showed me a hog-leg that long (indicating) and I said, "You have got the advantage of me, go ahead and search me", and he searched me.

So Pete Epperson was with me and I said, "Which
1875 way, Pete, do you get off of the train?" And he said, "On the left hand side?" And I asked him, "Which way

is the mine located?" And he told me and I said, "I am going to throw off his valise and fight, I am not going to put up with any more of this." And we got off and nothing more was done with us. And there was some boys that they paid their transportation back, I learned afterwards.

When we got past the last shaft someone got me, a rock hit me between the shoulders with pretty good force and made me draw back. I could not see anyone, but a lot of women was sitting on a porch, and I smiled it off all right.

Q. And now going down to the mine with Charley Cheek and Coons and Ogelbey, do you remember anything that occurred on that train?

A. Yes, there was only four of the boys on that train. It took us five hours to go about 20 miles the day before. We were on the train, and there was Blue Johnson and Charley Roberston and the Meek boys, four of them.

Q. Do you know the Meek boys' first names?

A. No, sir.

Q. Do you know where they work? A. No, sir.

Q. Do you know where Blue Johnson worked?

A. No, sir, I don't suppose any of them were working at that time. They had been drinking a little and this Blue Johnson was a little intoxicated, and he pulled out a pint of whiskey out of his bosom or pocket, and he took hold of it by the neck and said, "I am going to get a God damned scab with this, "and the boy with him tried to get him back into the other coach, and he would not go, and he picked up a spittoon and said, "I am going to get a God damned scaly with this" and I said to the other boys, "Keep your
1876 eyes open, there is going to be something doing."

And he came with the spittoon and made a pass with it, and I caught hold of his shoulder and said, "What are you going to do with that?", "I am going to get a God damned scaly". And I said to him, "You put that down or I will kick you out of the window" and then he put it down and went back to his seat. And then the conductor came in and he said, "What is the matter?" And I said "Why, we paid our fare and we want peace", and the conductor taken him out into another car.

Q. Do you remember the time preceding that when you were at Fort Smith, at the time of the injunction suit?

A. Yes, sir.

Q. Did you one day, while you were down at that trial have some trouble on the streets of Fort Smith?

A. Yes, sir. Harry DeMoss and I were walking around here together one day, and we looked down the street and saw

Sandy Robinson and the Wallace boys and some others came along and Sandy made the remark when we passed, "There goes two scalies", and I didn't say anything. And we came back and he said, "There goes two scalies" again, and I said, "Yes, two damned good ones too". And again we passed and they said, "There goes two scalies" again, and I stopped and patted him on the back and I said, "Sandy, someone is going to knock hell out of you", and he said, "You can't do it" and he said, "I will go down to the river at any time with you", and I said, "I know where I am, I am in Fort Smith," and I said, "I am an old man, but I will fight you for any money you want to put up, and if I can't knock you out in the second round I will never put them on again", and that stopped his bluff that day, and he never said anything more.

Q. Coming down to the battle of July 17th, were you
1877 employed by Mine No. 4?

A. Yes, I was foreman at that time in the mine.

Q. State all that occurred on the day, in your own words.

A. Well, the night before the battle, that was the first beginning of it, they must have short circuited the wires, because they took the power from us, and everything was put in darkness, and the boys thought they were coming in the night, and they all got up and got their clothes on, and got out, myself included, and there was nothing doing. And we went back to bed and about 4:00 o'clock the next morning as near as I remember some shooting took place and we had to get out again.

Q. Do you know where that shooting come from?

A. No, sir, I was in bed when it came, and I never took any notice of it. I didn't get up until the boys said they were coming, I laid awhile because they had been shooting before. But the boys said they were coming and I had to get up then and I got up and put my clothes on. But there was no more trouble at all then.

About 8:00 o'clock Bud Eustis was up and he said, "Tom I want to send some man down to get fresh water"—and I said, "I won't do it, I won't run the mine until you put a fan in, I won't run the mine because it is against the law", and he said, "You can fix the bell" and I said, "Yes", and I put Brown and another man down there. They didn't have any connection to signal and I put Dallas at the head, and they just got to the bottom when the shooting began, and we took them out and no work was done. And the shooting began, and the bombardment continued until 10:00 o'clock and then it subdued a little, and then it started in worse at

11:00 o'clock, and we got rid of them, we left at 11:30. In the meantime they set fire to the place roundabout,
1878 and they gathered around the fan house on No. 4 slope, and that is the last place they set fire to. At 11:30 we left, as near as I can remember. We went out though a thicket and cut across the creek and switched around the back side of Midland and hit the road for Hackett.

Q. Describe the shooting, how many shots were fired?

A. Oh, Good God, I can't tell, more than I would like to be amongst again. They were shooting all right, there is no mistake about that.

Q. Where was that shooting from?

A. In the first place it came from toward the track, where the school house is. They were in behind the cars. There was a dump out there about so high (indicating) where they had been loading cars, where they didn't have no track, but they were behind the cars and the only way they could get the bullets through was between the cars. The bullets were coming between the trees, and spent bullets were dropping down as if they didn't have power to carry them over, and some went buzz through the trees, I guess they were 30-30 by the sound of them. And they got around more towards the east side I guess. There is a ravine that runs down behind the boiler house, and finally we left.

Q. After you left the mine did you look back and see any fires in No. 4?

A. Yes, I presume a little over a mile out, we were on a piece of high ground from the other side of the creek, and we stopped at that time, and I said, "We ought to stop and see if everybody is here, everybody ought to look and see if we are all here, and who is here;" and everybody was there with the exception of two boys, I think, but we didn't know which way they had gone, but they knew the territory
1879 well.

Q. Who were they?

A. Pat Malloy was one, and the boy who was electrician there, I forget his name right now.

Q. Was it Harmon?

A. Harmon was there, and the Parrish boy was there; they were walking with us, and we got out on a high knoll and looked back and I said, "There she goes, No. 4 is gone to". "They have got the whole cheese". And we went on for two miles and every house was vacated and no one was around there. We got out on the main road and kept going on the road and trying to find someone who would let us

have a car, and finally we got to a Union man's house, and he would not let us telephone for quite awhile, but he finally did. We came back on the road, and walked down the road and Doc King came along and we had some guns we got down there, and we gave them to Doc King. One of the boys knew him and we gave the guns to Doc King. And he had a little picnic ham and he gave it to us, and we built a fire. We were hungry, and he gave us that picnic ham and a few loaves of bread, and we had lunch. And Bill Waddell and I were coming, and we got to the depot, and there were about three people around there. One fellow was drunk and he came to me and he said "How is Prairie Creek", and I said, "Where is Prairie Creek? I don't where it is. What is wrong there"? And he said, "Uh, huh" and about fifty of them came out of the brush, and one of them came up to Bill Waddell and said, "Were you at Prairie Creek?" And Bill said "Yes". He said to Bill, "You didn't stay to see the fight" and Bill said, "No". And he said "Where did you come from?", and he said "From Kansas City, I was a meat cutter up there". And he said to Bill". You wanted a job, and you came down here, and you learned a lesson, didn't you" and he said, "Yes." And then he said to me, "Where did you come from" and I said, "I came with
1880 this gentleman" in order to save a whipping. And he said, "Where were you at before this," and I told him, "Tulsa, Oklahoma", and he said, "What were you doing there?" And I said "Truck farming" and I said I got burned out. That was another lie; I admit telling that one. And he said, "Did you leave this morning before the shooting took place" and I said, "Yes, sir." That is the way we got out of it by telling a lie. We got on the train there and got into Fort Smith late that night.

Q. You had given your guns to Dr. King before that?
A. Yes, sir.
Q. How far is Hackett City from Mine No. 4?
A. I don't know, I was a stranger there.
Q. How long did it take you to walk it?
A. Good God, we left there at half past 11:00 and we walked over the road, and it was after dark when we got there. There was a thunder storm and we got wet.

Mr. Hull: That is all.

Cross-Examination

By Mr. Grant:

Q. Mr. Allison, where was your pistol at the time those boys wanted you to be searched?

A. I never carried a pistol in my life but once and that was in Oklahoma.

Q. You didn't have one in your grip?

A. No, my grip was there if they wanted to search it.

Q. Where did you get your gun that you gave to Dr. King?

A. At 10:00 o'clock that morning there was a fellow came out of a shaft with two and I said, "Are you going to use both of them" and he said no, and I said, "Good God, 1881 give one of them to me" and I said "How many shells have you got" and he said, six, and I says "You give me some shells and they will stay there until I need them".

Q. Who came out of the shaft?

A. Thomas.

Q. He was one of the employes of the Bache-Denman Coal Company?

A. Yes, or he would not be around there.

Q. Were those the only two guns you saw there that day among the Bache-Denman employes? A. No.

Q. How many did you see there?

A. I could not tell you.

Q. About how many?

A. Oh, I can't tell you. There was a lot there that didn't have guns.

Q. Where were you the night Frogtown was shot up?

A. I never knew Frogtown was shot up.

Q. You never heard about it?

A. I heard of it, but I didn't know that it was true.

Q. Were you in town the day it was reported to be shot up?

A. I don't know when it was claimed to have been shot up. There was always shooting over there when they got drunk over there.

Q. When did you hear of it?

A. When the boys were accused of shooting it up.

Q. Before you left Prairie Creek after the battle you heard of it, didn't you?

A. I won't say whether I did or not, because I never expected to be brought into this and I never set no dates down. I could not swear to anything.

Mr. Grant: That is all.

(Witness excused.)

Mr. Drinker: We offer in evidence the deposition of
1882 Ewing Thomas taken on March 30, 1917, notice being waived, and counsel being present on both sides.

Mr. Drinker (reading):

"Mr. Ewings Thomas, being duly sworn deposed as follow:

Examined

By Mr. Drinker:

Q. What is your full name? A. Ewings Thomas.
Q. Where do you live?
A. Near Tazewell. Straight Creek Zinc Mines.
Q. What are you working at now?
A. Straight Creek Zinc Mines.
Q. How old are you? A. About 52.
Q. Where were you working in the spring of 1914?
A. Tennessee Coal Company.
Q. Where? A. Briceville.
Q. At that time did a man come to see you about going to work at Arkansas? A. Yes, sir.
Q. What was his name?
A. Eustis, I believe they called him.
Q. What did he say to get you to go to Arkansas?
A. Place out there that wanted men, a nice place to work, something like that.
Q. What did he tell you about conditions there?
A. Running open shop mines but they had no injunction there and it was perfectly peaceable and quiet.
Q. That it was a union or non-union country?
A. A Union country.
Q. Did he get any other men besides you to go?
A. Yes, sir, three others.
Q. Who?
A. Sam Thomas, Archy Brag and Charlie Suttles.
Q. Then when did you go from Briceville what month?
A. Along about June sometime, I don't remember the day.
1883 Q. Remember when you got to Prairie Creek, what date it was?
A. About the 10th I believe.
Q. How did you find things there?
A. [Dound] them just like Mr. Eustis represented it.
Q. Any trouble there?
A. Not any when we went, peaceable and quiet.
Q. How long did you stay? A. Three weeks.
Q. What did you come home for?
A. After my family.

Q. What was your idea?
A. I wanted to go I thought it was a good place to work, liked the company and the situation.
Q. When you came back here did you get any other men to go back with you?
A. Came several to me after I came back, come to my home in Coal Creek and I told them how the thing was and they said I want to go back with you.
Q. Did any other men go back with you?
A. Yes, some several.
Q. What did you tell them about conditions at Prairie Creek?
A. I told them that it was union people's country in there and had an injunction against that place and that they was guarding it, and they said they didn't care for that they would go away, I told them I didn't think there would be any trouble there whatever.
Q. How many went back with you?
A. There was John Martin, Mr. Dougherty and his son, Tom Saunders and his wife, old preacher Johnson, Tom Perry and his family and my family.
Q. What did your family consist of? A. Four.
Q. Who?
A. [My] and my son and wife and little daughter.
1884 Q. What is your son's name? A. William.
Q. How old is he? A. 19.
Q. How? A. Yes, sir.
Q. Who was Tom Perry, any relation to you
A. Yes, him and my wife first cousins.
Q. Any relation to your daughter?
A. Married my daughter.
Q. How many children had he? A. Three.
Q. Your daughter go with him? A. Yes, sir.
Q. Mrs. Tom Perry? A. Yes, sir.
Q. When did you get to Prairie Creek the second time you went?
A. On Friday, I believe it were.
Q. How long before the battle, how many weeks?
A. Not quiet a week. About one week.
Q. You know what day of the month the battle happened on? A. No, sir, I do not.
Q. You say you got there a week before the battle?
A. Yes, I believe it was on Friday it took place next Friday.
Q. Where did you go to when you got there?
A. No. 3 on the hill.
Q. You know what the camp was called where you lived?

A. I can't speak it.
Q. Where was it as to the No. 3 tipple and fan house?
A. Up on the hill near what they called the fan house, closet house to the fan house.
Q. What other thing they call the fan house?
A. Never heard it called anything but fan house.
Q. Between the time you got there and the battle, any trouble? A. No, sir, never heard any.
Q. What were you doing there for the company?
A. Working at the boarding house.
1885 Q. What were you doing?
A. Running a boarding house for the company.
Q. Did you go, ever go to Frog Town with a gun?
A. No, sir.
Q. Ever do any shooting there? A. No, sir.
Q. Ever hear of any of the other company employes doing such a thing?
A. No, sir, never heard them say anything about such a thing.
Q. When was the first shooting you heard at the time of the trouble.
A. On Thursday night about three or four o'clock.
Q. Afternoon or morning? A. In the morning.
Q. Thursday morning?
A. What you might say Friday morning.
Q. What did you hear and how did you happen to hear it?
A. My daughter heard it and got up and waked me up and I got up and went to the door and listened.
Q. What was it?
A. Shooting of guns of some sort.
Q. What direction?
A. From the north, the way, I thought it was, my wife got frightened and took my attention to her, but I thought they came from the north.
Q. Then what did you go?
A. I went back and put on my shoes and finished dressing as quick as I could.
Q. Did your wife get up? A. No, sir.
Q. Your daughter? A. Yes, sir.
Q. That was Mrs. Perry? A. Yes, sir.
Q. Then what did you do after that?
A. I went down to the camp and got to the fan house.
Q. What time was that?
A. Between seven and eight o'clock. Seven o'clock when I got to the fan house.
1886 Q. Have any breakfast? A. Yes, sir.
Q. What time? A. About six o'clock.

Q. When you was the next shooting you heard?
A. Took place about seven or little after seven.
Q. Where were you then? A. Fan house.
Q. What did you go there for?
A. To relieve old man Dougherty, the guard.
Q. Anybody there?
A. Yes, some fellows there, his son guarded that night, but another fellow there when I got there.
Q. Have any gun with you?
A. No, sir, didn't take any gun with me one there.
Q. Where did Dougherty go when you got there?
A. I don't know.
Q. Go away from there? A. Yes, sir.
Q. Who was there with you?
A. Didn't know his name.
Q. What was he doing there? A. Guarding.
Q. How long did you stay there?
A. I stayed about five minutes I guess and they blowed a whistle and I says to him, "My notion is trouble has took place this morning".
Q. Then what did you hear?
A. I was setting there and heard a shot around the corner and I said,—

Mr Drinker: Don't tell that.

Was not more than a breath until the shooting over in the camp begain.

Q. What camp? A. No. 3.
Q. Where did it come from?
A. Every direction it appeared like to me, couldn't tell.
Q. You got out?
A. Yes, sir. Looking for my son and daughter.
1887 Q. What did you see? A. Lot of men.
Q. What men? A. Union men I reckon.
Q. Men that were working with the company?
A. No, sir.
Q. Where were those you saw?
A. Back of the camp there.
Q. Moving?
A. Some of them walking about and some not.
Q. Which way were they coming?
A. Right that way.
Q. Which direction, toward you or away from you?
A. Around the camps, back of the camps.
Q. Did they have guns any of them? A. Yes, sir.
Q. How far away were they?

A. A quarter of a mile I guess, I could see them.
Q. You see any of them shoot?
A. I couldn't tell if they were shooting or not.
Q. Where were they shooting from?
A. Shooting from that direction, appeared like.
Q. Anybody shooting from the camp?
A. Don't know, didn't pay any attention.
Q. Where did you go then?
A. I went home to my wife and family.
Q. You find your wife?
A. I found my wife laying on the floor, face on the floor.
Q. What was the matter with her? A. Scared.
Q. Who else was there?
A. Just little girls with her, three little girls.
Q. Who were they?
A. Daughters little girl and my own.
Q. You said three?
A. We got two there, little girls at my house.
Q. Was that all the people there?
A. Thats all was there with her.
1888 Q. How long before anybody else came?
A. A short time before my son and daughter came.
Q. Which way did they come?
A. From the boarding house, my son was working in the boarding house and she went down to see about her man and him.
Q. Then what did you do?
A. I taken my wife, carried her to the back of a knob from the mines went in back of a knob to keep from being killed, my wife got sick on the way and I laid her down a time or two thought she was dying.
Q. Who all went with you there?
A. Old man Dougherty and his son, old man Johnson—
Q. Go along with you or come after you?
A. Went right along, and another man, I don't know his name and his family, Tom Perry's wife and her children, I don't know many there was, didn't count them.
Q. What time was it when you got there?
A. Between eight and nine o'clock, from eight thirty somewhere along there.
Q. Had you looked out when you were at your house to look [ove] the country before you started? A. Yes, sir.
Q. What did you see?
A. Big lot of men down there and I got away as quick as I could, might some of them get killed, my wife was scared in a manner to death and I wanted to get her out.
Q. See any fire? A. Yes, lots of it.

Q. Where?
A. Tip house and another house burning, dwelling house.
Q. Where?
A. I forgot the name of the mine, I was no [furth] down than where I was living.
1889 Q. What mine was it you saw the fire?
A. I don't know, No. 4 or what it was, scattered all around, they said the mine belonged to that company. I know this fire was burning I saw it.
Q. You ever seen a mine over there when you saw the fire? A. No, sir.
Q. See a tipple?
A. Yes, seen it burning down.
Q. Did you see any fire on the tipple?
A. Seen the fire burning it down.
Q. When you passed did you see that?
A. As they carried us out we went by there, taken us away down the mountain.
Q. I am talking about before you went on the bluff, see any fire on the tipple then? A. No, sir.
Q. When you were on the bluff where you went with these people, were you where you could see over the country? A. Yes, over that way.
Q. Were you where the shooting could hit you coming that way? A. No, sir.
Q. Why not? A. Bluff, under the bluff.
Q. How long did you stay there?
A. Went about eight or eight thirty and stayed until eleven or about.
Q. How did you know?
A. Didn't know exactly, it was something right along there.
Q. Then were did you go next and how come you to go there, how come you to move?
A. There and the children commenced to cry for water and I made up my mind to go after water if I got killed—
Q. Did any one come along there?
1890 A. Yes, some of the union men come around.
Q. Have guns? A. Yes, sir.
Q. You know any of them? A. No, sir.
Q. Know any or either of them? A. No, sir.
Q. What did they do? When was the first time you saw them?
A. Setting there and turned my head and seed them come out the hill.
Q. What did you do when you saw them coming?
A. Got up and walked right up to them.

Q. What did they do?
A. Run backward and one went one way and the other the other way and one throwed his gun down on me and the other one said, "don't shoot that man" and he throwed his gun up and stopped, I said, "men I don't aim to interrupt you no way we just want to talk to you."
Q. What [—] do then?
A. Come to where I was and I told them and they said to get your crowd and we will pilot you out of here and I got my wife and went out down the ridge.
Q. Who went with you? A. Whole crowd.
Q. Where did these two men go?
A. Right on with us and got to spring and turned us over to some more.
Q. Any marks on them? A. White handkerchiefs.
Q. Which arm? A. This arm (pointing to his left arm).
Q. Where did you go from the bluff?
A. Down the ridge and come to a place down there and they were shooting so heavy made us stop and set down until the shooting ceased.
Q. See any men as you went along? A. Yes, lots.
1891 Q. Men working for the company? A. No, sir.
Q. Have guns? A. Yes, sir.
Q. What were they doing?
A. Running back and forward first one place and then another around the camp there.
Q. See any of the shooting? A. No, sir, nary shot.
Q. Where did you get to from there?
A. Went to a little spring and got some water.
Q. Meet anybody at the spring?
A. Yes, hundred or more there.
Q. What were they doing?
A. There ourselves to get water and some come the way the trouble was.
Q. Have guns with them?
A. Yes, some of them did and some didn't.
Q. What kind?
A. All kinds, high power guns and some others.
Q. What kind of guns those have that came on the bluff?
A. They had that long range gun and the other shot gun.
Q. Any arms with them? A. Never seen them.
Q. These men at the spring have marks on them?
A. Some.
Q. What? A. White handkerchiefs.
Q. You say that when you got [—] the spring they turned you over to some others? A. Yes, sir.
Q. Know them? A. No, sir.

Q. Know their names?
A. No, sir, not acquainted with any of them in there.
Q. Have guns? A. Yes, sir.
Q. What happened at the spring if anything?
A. Some man with us had on mine clothes and one man said, "I will give you a chance for your life when the other crowd gets here they will kill you" and he pointed his finger at a big tree on the ridge, "you see that there, you hit
1892 this corn field and get away from here as quick as you can, and don't look back", that's what he said.
Q. What did the man do?
A. Trotted off and got away, left his wife and children.
Q. Ever see him any more? A. No, sir.
Q. What happened then?
A. Went down and put the women and children in a hack, and took this hack.
Q. What hack?
A. Deputy Sheriff's, said he was a Baptist preacher, then we went on down and they took us to a hotel.
Q. You got in the hack?
A. No, sir, walked along the side.
Q. Who got in? A. Women and children.
Q. Anybody go along with you?
A. Yes, followed along a crowd, several.
Q. When you were coming along from the bluff to the spring see any horses? A. Mules.
Q. What [a] doing?
A. Carrying ammunition, fellow asking if they had plenty of ammunition.
Q. Who did? A. Fellow on the mules.
Q. How many did you see? A. Five or six I reckon.
Q. All on one mule? A. No, sir, scattered.
Q. What were the men doing that had the mules?
A. Said they had ammunition on there.
Q. See any ammunition there? A. Some in sacks.
Q. What were they doing with the sacks?
A. Asking the fellows if they had plenty of ammunition.
Q. See them get any out of the sacks?
A. No, sir, I didn't.
Q. When you went along the road, when you got the hack where did you go? A. Hartford.
Q. Meet any people on the road to Hartford?
A. Yes, sir.
Q. People you met men or women? A. Yes.
1893 Q. People you met men or women? A. Both.
Q. Any more men with guns? A. Yes, sir.
Q. How many? A. Several.

Q. You see any more men with marks on them?
A. Yes, sir.
Q. What kind? A. White handkerchiefs.
Q. How long did it take you to get to Hartford?
A. I don't know, had to drive slow.
Q. What time was it when you got there?
A. I guess between one and two o'clock.
Q. Where did you go when you got there?
A. To a hotel, upstairs in a room my family, the rest downstairs.
Q. Who went with you?
A. I don't know who he was, man that claimed to be a deputy sheriff and a preacher, don't know his name.
Q. Did any of the other men that went along come?
A. Yes, sir.
Q. Say several come to see you? A. Yes, sir.
Q. Anything happen when you were up there?
A. Kept coming up there and I went and spoke to keep them down frightened my wife and the man stopped some from coming, come a woman up there an old woman and she said she was sorry—"I am sorry for these little children but these scab women and men couldn't come in my house if it was raining hail stones as big as salt barrels."
Q. Anybody else come?
A. Yes come a lady, nice lady treated my wife very nice and kind.
Q. How long did you stay there? A. All night there.
Q. Where did you go from there?
A. Taken us across on the corner to an old long store house, taken us across there.
1894 Q. They bring you food there?
A. Yes, plenty to eat there.
Q. How long did you stay there?
A. Until Sunday morning.
Q. How many rooms for the crowd?
A. One long store house.
Q. What happened on Sunday?
A. Bought our tickets, the Mayor of the Town they said and sent us back to Coal Creek.
Q. Anybody say why they sent you back to Coal Creek?
A. Wanted to get us out of the town, wanted to get us away from there as quick as possible.
Q. You know he was mayor?
A. No, sir, just what they said.
Q. Where did you go from there? A. To Coal Creek.
Q. Was your daughter there with you all the time from the time you got to Hartford?

A. Yes, stayed right there, went back in the camp that night after her things.
Q. Who went with her? A. Two officers, said they were.
Q. Walk back? A. Two two horse wagons.
Q. Say why she went?
A. After our things that was in the house, our trunks.
Q. Bring them back?
A. Yes, trunks and load of the household stuff.
Q. What was in the trunks?
A. Was not much, everything that was in them that was worth anything had been taken out.
Q. Don't know who took it out?
A. No, sir, don't know that.
Q. Did you say Mrs. Perry went that Friday night or next day? A. Friday night.
Q. The day of the battle? A. Yes, sir.
Q. Ever been back in that country since that?
A. No, sir.
Q. Describe to us as best you can this man they said was Mayor?
1895 A. Slim man, spare made man.
Q. Any mustache or whiskers?
A. Seems like black mustache.
Q. Tall or short? A. Tolerable tall.
Q. Describe as best you can the two men that met you at the spring?
A. One was a big tall fellow best of my recollection he was red headed, the other I don't remember how he looked.
Q. What kind of looking fellows were they that come to you on the bluff?
A. One big square fellow and the other a small fellow with black mustache."

Mr. Warrum (reading):

"Cross-Examination

By Mr. Covington:
Q. Did you know any of the employees working at the mines where you were running a boarding house?
A. I knowed a few of them.
Q. You see any of them [—] day except the two you mentioned as being at the fan house on the morning of the trouble?
A. No, sir.
Q. How many of the employees you acquainted with?
A. Well there was some six or eight I reckon.
Q. How many did they have there at that time in all?
A. I couldn't tell you how many was there in all.
Q. Big crowd?

A. Not so powerful many, several too, never counted them.
Q. 75 to 100? A. Somewhere along there in all.
Q. Out of that number you knew about eight?
A. I didn't pay any attention, didn't inquire their names and get acquainted, not been there long enough.
1896 Q. The two men you referred to as meeting you at the bluff you don't know who they were? A. No, sir.
Q. Never saw them before? A. No, sir, not that I know of.
Q. Then you don't know if they were union men or non-union men? A. No, sir, couldn't say.
Q. Don't know if they lived in that community or in Oklahoma or where?
A. Couldn't tell you where they were from.
Q. You know Preacher Stroupe? A. No, sir.
Q. You say a preacher carried you into Hartford?
A. Said he was a preacher.
Q. He was a tall fellow? A. Yes, sir.
Q. [Read] complected man? A. Yes, sir.
Q. Said he was a preacher? A. Yes, sir.
Q. Took your family in a wagon and took them to Hartford? A. Yes, sir.
Q. Cared for you and bought your ticket and you come back to Coal Creek? A. That's what they done.
Q. You met no one that you knew? A. No, sir.
Q. The entire route? A. No, sir.
Q. What time did you get up that morning?
A. About three o'clock.
Q. Then when the shooting began?
A. Yes, between three and four o'clock.
Q. Dark then wasn't it?
A. Tolerable dark, see a little distance.
Q. Could you see well enough to tell a man from anything else 200 yards away? A. No, sir, not [them].
Q. Could you tell a white man from a negro?
A. No, sir, don't believe I could at that time.
Q. Tell him 50 yards?
A. I don't know if I could or not.
1897 Q. No moon shining that morning?
A. Don't think they were.
Q. You say you went from the fan house back to your own house between seven and eight o'clock? A. Yes, sir.
Q. Now before you left the fan house did the shooting commence again?
A. Yes, commenced before I left the fan house.
Q. You then went back to your home? A. Yes, sir.

Q. And took your family and others mentioned and went back behind the hill? A. Yes, sir.

Q. That east or [notrh] of the mines where you were located? A. Kind of east I should think.

Q. Before you left the fan house were any shots coming in around the fan house, shooting at you?

A. Then they were coming in the camp and shooting was, I don't know which way it was ranging.

Q. You say coming in the camp, how do you know [nonw] around you and you were nearly a quarter of a mile from where the shooting was going on, how do you know shooting into the camp?

A. Don't know exactly, from the noise thought it was coming into the camp.

Q. Was down there where the tip is located.

A. Good deal and from other direction too.

Q. Great deal of the shooting being done where the tipple is located? A. Some of it.

Q. If you hear a gun fired on a hill quarter of a mile off can you tell from the sound of the gun which way they are shooting? A. No, sir.

A. No, sir.

Q. Then you don't mean to say they were shooting into the camp? A. I meant just what I said.

Q. Either answer the question or not just as you like. Can you tell from the sound of a gun what direction the party shooting the gun is shooting?

1898 A. I have not answered it, have I?

I want a man to talk to me like I am a man and not a dog. No, of course, I couldn't.

Q. What time was it when you started into the town of Hartford from the spring you referred to?

A. Was about twelve o'clock I reckon.

Q. You spoke in your examination in chief about some fire that was burning there? A. Yes, seed the fire burning.

Q. When?

A. As we went down to Hartford before we came to the spring?

Q. At what point was the fire?

A. In the north from where we were.

Q. You know what it was burning at that time?

A. Tip house and dwelling house.

Q. Tipple? A. Yes, sir.

Q. How many tipples? A. I just seen one.

Q. Which one?

A. I don't know the number, the name of it, not acquainted there.

Q. That the tipple at the mines down below the fan house?

A. No, sir, toward Hartford.

Q. Further down? A. Yes, sir.

Q. Don't know the name of it? A. No, sir.

Q. Did you see any one from the mines that day, those who were employed at the mines?

A. I seed none, only the men with me.

Q. Only the men you mentioned at the fan house?

A. Yes, sir.

Q. You meet any others you didn't know? A. Yes, sir.

Q. And you did not know them? A. No, sir.

Q. Outside of the seven or eight you have mentioned
1899 you would not have known any of the others if you had met them? A. No, sir.

Q. How many were in the wagon that carried you people into Hartford?

A. I don't know, several women and children there, don't know how many children. Don't know how many children.

Q. Meet women and children all along?

A. Yes, women along the road and children too.

Q. Great many people along that road that day?

A. Yes, several.

Q. Way on out until you struck the spring?

A. Yes, lots of them.

Q. Were they going out toward where the trouble was going on a lot of them?

A. Yes, some that way and some back from there, some one way and some another.

Q. Some a foot?

A. Yes, and in buggies and horseback.

Q. Some in autos? A. Yes, some in autos.

Q. The preacher—the man that said he was a preacher, had a gun in his wagon? A. Yes, sir.

Q. After you reached Hartford you did not go back to the scene of the difficulty, if there was one? A. No, sir.

Q. What occurred out there that day you don't know anything about except what you have testified to? A. No, sir.

Q. If there was a fight you don't know who engaged in it?

A. No, sir.

Q. Were you ever at either one of the mines?

A. No. 3, I believe it was No. 3.

Q. Went to one of them?

A. I never went around there, wasn't there long.

1900 Q. How many were boarding at your boarding house, employees of the company?

A. All of them eat there, I don't know, just about all.

Q. That was the principal boarding house and the only boarding house conducted at that place?

A. Yes, all I knowed anything about.

Q. Mr. Drinker asked you particularly about your trip back to Tennessee, after you first went to Prarie Creek, Arkansas, and also what you said to people about going out there, why is it you are so particular about placing in the record that you told about the strike and the trouble they had? A. Not particular about telling it.

Q. You know why it is that Mr. Drinker is so careful to prove you told them all about the difficulty out there?

A. Well I told them just how things were and explained I didn't misrepresent things no way told them just as it was there.

Q. I ask you this question, if you are now advised why it is that Mr. Drinker, counsel for the coal company is so particular to show by you that you told all the parties that you talked with about the matter just the conditions existing at Prarie Creek? Know why he asked those things?

A. Wanted me to tell just as it was, I suppose, that's I understood it.

Q. Don't know?

A. I can't read his mind, I can't tell nothing about what he meant, I don't know what he meant.

Q. He talk with you about it being a violation of the law to take men from one state to another, and about bringing them into Arkansas under the circumstances such as existed at Prairie Creek, Arkansas, on the dates referred to?

1901 A. I can't say I took them there, they will not say I took them there, I did not hunt out after them, they came to my house.

Q. They were seeking you?

A. Come to my house after I come back to find out how things were out there.

Q. Who paid your expenses back here?

A. Man there at Hartford said the corporation made up money, that's what they told me.

Q. I am not asking about your last trip back to Tennessee, you come back to Coal Creek and then returned to Arkansas after that, who paid your way back to Tennessee?

A. I paid it myself.

Q. Were you reimbursed?

A. I worked for the money and paid it myself.

Q. You came back to Coal Creek to get your family?

A. I did, paid my own money.

Q. Were you ever repaid that amount by anybody?
A. No, sir.
Q. Did you have a promise from any one to repay you?
A. No, sir.
Q. Did the men go along back with you?
A. Yes, right back as I went.
Q. Who paid their way? A. I couldn't say.
Q. Who else was with you, came out here with you?
A. Nobody back with me."

Mr. Warrum: The rest of the cross-examination we will waive reading.

Mr. Drinker: We will read it. There might be some that we will omit, but I cannot say off-hand; I was not expecting this.

The Court: We will take a recess until 2:00 o'clock.

(Whereupon a recess was taken until 2:00 o'clock P. M.)

1902 Ft. Smith, Ark., Wednesday, Oct. 31, 1917.

2:00 o'clock p. m.

Court reconvened pursuant to adjournment, the parties appearing as before and the following proceedings were had:

Mr. Drinker: I will skip from the question 85, where Mr. Warrum left off on cross-examination, he ended on page 23, —the last question read was at the bottom of page 22. Now I will skip, until you begin at question 112. (Reading):

"Q. Now during the entire morning of the 17th of July you and your family that you have named and the other parties you have named were together all the morning?
A. Yes, sir.
Q. After you left and went on the hill? A. Yes, sir.
Q. Remain together during the entire day and up until Sunday morning? A. Yes, sir.
Q. You were furnished transportation by a man who said he was mayor of Hartford and came back to Coal Creek?
A. Yes, that is right.
Q. Did you say your son was with you that day?
A. Yes, sir.
Q. And was with you all the time from Friday morning until Sunday morning A. Yes, sir.
Q. I did not get the relationship of Perry, he is your son-in-law? A. Yes, tom.
Q. He with you? A. No, sir, not that morning.

Q. With you in Hartford?
A. No, sir, never seen him any more for three months, before he come in home.
Q. But his wife was along?
A. Yes, I brought her back with me.
Q. Is Tom Perry a coal digger?
A. No, sir, a laborer on the outside of the mines.
1903 Q. At the time he left Coal Creek was he a laborer about the mines? A. Yes, sir.
Q. What company did he work for?
A. Tennessee Coal Company.
Q. Was your son a coal digger? A. No, sir.
Q. What was he doing at the time he left Coal Creek to go to Prairie Creek?
A. On the outside and timbers around the mine.
Q. How many was in the crowd that went back with you on the occasion discussed here about the fares, etc., on the second trip?
A. I established that once. Old man Dougherty and his son, John Martin, Jesse Grant—
Q. Was old man Dougherty and son coal diggers?
A. Yes, sir.
Q. Grant a coal digger? A. Yes, sir.
Q. Was he engaged in the business of digging coal at the time he left here?
A. No, sir, not doing anything, not any of them doing anything, work was dull here.
Q. How many coal diggers in the crowd that went there, that pursued that occupation?
A. Men say they are coal diggers when they can't do much at it, all claimed to be coal diggers, Dougherty and his son, Jesse Grant and John Martin I believe they about all claimed to be coal diggers like.
Q. The other people they worked at any kind of employment they could get? A. Yes, sir.
Q. Not been working around the mines?
A. Some had and some had not.
Q. Those who had, outside of those claiming to be coal diggers did work on top?
A. Yes, on the outside, didn't go in the mines to work.
1904 Q. You were conducting a boarding house out there?
A. Yes, sir.
Q. What time did you say you got down to the fan house that morning? A. About seven o'clock.
Q. You had breakfast, I believe you say, at six?
A. Yes, sir.

Q. [You] family over there?
A. Over there at home, except my son he stayed at the boarding house every night.
Q. You take your meals at the boarding house or at home?
A. Home. Fixed up a day or two before that to take them at home. I fixed to take them at home, straightened up just a few days before this trouble came up.
Q. You acquainted with Sam Thomas? A. Yes, sir.
Q. He related to you? A. No, sir.
Q. How long have you known him?
A. Got acquainted with him awhile before I went out there.
Q. Where? A. Cambra Coal Cimes.
Q. You know where he was from originally?
A. No, sir, do not.
Q. Any of those women have guns you met on the road?
A. Never seen a woman with a gun.
Q. How many guns did you see? A. Couldn't tell.
Q. Give some idea.
A. I saw so many I can't tell a thing in the world about that. I seen so many. I don't know, I can't tell you.
Q. The man who carried you in had an equal opportunity to see these things? A. Ought to if he had eyes like I did.
Q. Didn't look blind, did he? A. I don't think he was.
Q. The other people at the spring and on the road had an equal opportunity to see all these things that you
1905 did, didn't they?
A. Yes, seems like they ought to have seen them.
Q. During the time you were at Prairie Creek did you get acquainted with a man named Rusty, commonly called Rusty? A. No, sir, not that I remember of.
Q. Don't remember a name of that kind? A. No, sir.
Q. Where does this man Dougherty live now at this time?
A. Slatestones mines or Tennessee Mines.
Q. How far from the town of Coal Creek?
A. Three and half or four miles up there.
Q. At what point did you get off the train when you got over to Prairie Creek, in that country where did you get off the train?
A. Got off [a] Fort Smith and got on the train and went down apiece and got off again.
Q. You met at the train?
A. Don't know who he was.
Q. How many?
A. Two or three of them, don't know would not say for certain.

Q. Have wagons with them? A. One wagon.
Q. Have guns with them? A. Yes, had some guns.
Q. Was some trouble at the train that afternoon you got down there?
A. Not that I know of, I don't remember any. I don't remember of hearing of it.
Q. You afterwards learn who met you on this occasion?
A. No, sir.
Q. Did you ever see them after that time?
A. Yes, I seed them but I never paid no attention to who they were or what their names were.
Q. Don't remember their names? A. No, sir.
Q. You know a man named Charles Cheek?
A. Yes, I know him.
Q. Everybody was acquainted with Charles Cheek, wasn't they? A. In the camps, no, sir."

1906 Mr. Drinker: Now, I will omit from question 167 to question 171. (Reading):

"Q. Mr. Drinker asked you on direct examination if you went to Frog Town at any time a few days prior to the trouble on the 17th of July, and if you shot into Frog Town?
A. No, sir, never was in Frog Town and never shot into Frog Town, never was over there at all.
Q. There was some trouble over at Frog Town?
A. Don't know, can't answer that. I don't know, sir, if were or not.
Q. Four days before this shooting occurred on the 17th, about which you testified, is it not a fact that one night about the hour of 10:30 o'clock that a difficulty occurred at what is known as Frog Town, a place between the mines where you stayed and Hartford, in which a great deal of shooting was done?
A. Don't remember it, don't remember hearing anything said about it that I remember of. Anything that I remember of.
Q. Didn't mix and mingle with those fellows much?
A. No, sir.
Q. Were you out in the neighborhood of this mine you speak of being on fire on Sunday before this difficulty on Friday?
A. No, sir, not outside the mine limits there the whole time I stayed there.
Q. Then if those guards stationed down there and employed at the mines went down there and shot up Frog Town you don't know anything about it?
A. No, sir, didn't know anything about it."

Mr. Drinker: I will now skip to question No. 10 on redirect examination. (Reading):

"Q. When you got up that morning, when you said
1907 that your daughter, Mrs. Perry, called your attention to the shooting were you paying special attention to how light it was and how far you could see a man?
A. Well, no, didn't pay much attention.
Q. What were you paying attention to?
A. To the shooting.
Q. What were you doing?
A. My attention was to my women mostly.
Q. Did you see Charlie Suttles that morning before you went to the fan house? A. No, sir.
Q. You said in answer to Mr. Covington's question, you said that the corporation you understood paid the money to get you from Hartford to Coal Creek, what corporation you mean? A. There at Hartford.
Q. Town of Hartford? A. Yes, sir.
Q. You said in answer to Mr. Covington's question that you didn't mix much with the fellows in Frog Town why didn't you?
A. Didn't have no cause to go there, didn't want to go.
Q. Why?
A. Simply from the reason they said if they catch us fellow out over there they would beat us up, the union fellows beat us up.
Q. Who said that?
A. Talked in the camps that they would beat us up if they caught us.
Q. Up on the bluff between nine o'clock and eleven you hear any loud report? A. Yes, sir.
Q. What time was that?
A. Don't know exactly from 9:30 or 10, I don't know.
Q. Did that sound like a rifle shot? A. No, sir.
Q. What sound like? A. Dynamite.
Q. What direction come from? A. That way.
1908 Q. Which direction? A. North.
Q. What was in the north direction?
A. Fan house and smuch as that and the mines"

Mr. Drinker: Do you desire to read the recross examination?

Mr. Warrum: No, sir.

Mr. Drinker: I will read it. (Reading):

"Recross Examination.

Q. Mr. Thomas, he asked you your reason for not going to Frog Town, you didn't even associate with the employees of the company? A. No, sir.

Q. Enough to know who they were, only those you knew here? A. Didn't pay much attention.

Q. All of the information you got there about the inclination of the citizens to beat you up was from the officers and employees of the company? A. No, sir, in camp.

Q. Didn't get that from any miners around there at all?

A. No, sir.

Q. And you don't know a single man in that section who belonged to the miners organization?

A. No, sir, don't believe I do."

1909 ENGLISH DOUGHERTY, called as a witness on behalf of the plaintiffs, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Drinker:

Q. What is your full name, Mr. Dougherty?

A. English Dougherty.

Q. Now, you must talk up so that the last juryman here can hear you, and so that the lawyers for the defendant can hear you.

A. I am a pretty low talker; I have rather sort of a wheezy in my throat, anyway. You try to talk a little loud to me, because I am a little hard of hearing.

Q. How old are you?

A. I will be, I guess, 69 years old.

Q. 69? A. Yes, sir, the 11th day of March, I think.

Q. And where were you born?

A. I was born in Tennessee, Madison County.

Q. Have you any children? A. Yes, sir.

Q. How many?

A. Ten boys; I have just nine now, because one of them died. We raised him.

Q. Now, in the summer of 1914 where were you living?

A. I was living in Briceville.

Q. In what state? A. In Tennessee.

Q. And did you go from there to Prairie Creek?

A. Yes, sir.

Q. How did you happen to go to Prairie Creek?

A. Well, I got with this old man Thomas.

Q. What is the rest of his name?

A. Ewing Thomas, and he told me that there was good work down here, and they were paying good wages, and all like that, and he picked me and my son to come with him, and all, and we just up and come, and he said they
1910 were working open shop here, just like they was there.
Q. Had you been working,—what was your business?
A. I was a miner and coal digger.
Q. How long had you been in that business?
A. About 43 years.
Q. You spoke of your son, what was his name?
A. A. D.,—Andrew.
Q. That is the man that is there in the back of the room now? A. Yes, sir.
Q. What was his business?
A. He came for the same business that I did.
Q. He was a coal digger? A. Yes, sir.
Q. How long had he been doing that?
A. He had been mining for about,—my recollection is 24 or 25 years, longer maybe; I can't recollect exactly when.
Q. Then had Mr. Thomas been down here before, when he came to you?
A. Yes, sir, he said he had; he said he just came back.
Q. Now then, did you ever go from there to Prairie Creek?
A. Yes, sir.
Q. When did you start?
A. Now, let me see. I don't know what day it was I started, [exeatly].
Q. How long did it take you to get here?
A. I believe we were two days and a night; or maybe two nights and a day, something like that.
Q. Do you know what day it was when you got here?
A. Yes, sir, we got here, I reckon, somewhere about the 10th.
Q. The 10th of what month? A. July.
Q. How long before the battle happened?
A. Well, I was there,—I had worked,—we got in there
1911 on Friday, and I went to work on Saturday following, and that battle came up there, I think it was somewhere about the 17th.
Q. Then you were there about a week before the battle?
A. Yes, sir.
Q. Now, who went along with you? A. To work?
Q. No, on the train from Coal Creek?
A. That came from up there?
Q. Yes.
A. There was my son and Ewing Thomas and his son and his son-in-law.

Q. Who was the son-in-law? A. Tom Perry.
Q. What was his son's name? A. William.
Q. William Thomas? A. Yes, sir.
Q. And the son-in-law; and who else?
A. Jesse Drank, and John Martin, and I don't know whether there was anyone else or not.
Q. Do you remember a preacher along?
A. Yes, sir, J. J. Johnson, and his son.
Q. Whose son? A. Johnson's son.
Q. What was the preacher's name?
A. He just signed his name J. J. Johnson.
Q. What was he coming along for?
A. He was going to work, too, in the mines.
Q. What was his son's name?
A. They just called him Pete, is all I knowed about him.
Q. Do you remember anybody else that was along, any women? A. Yes, sir, there was Jack Brooks, along, too.
Q. Was there any women along?
A. Yes, sir, Mr. Thomas' wife, and son William, and Tom Perry and his family.
Q. What family did Tom Perry have?
A. He had a wife and two or three,—three or four
1912 children, I don't know which, I don't just remember.
Q. Were there any other women along?
A. Yes, sir; William Sanders and his wife were along.
Q. Now, when you got to Prairie Creek, where did you live? A. Where did I live?
Q. Yes.
A. Well, I didn't live hardly nowhere, I stayed around up there by the fan, with William Sanders and his wife, on the hill, just above this fan they are talking about getting blowed up, or torn up, or something like that. I didn't stay there long enough to realize the numbers of the work, or nothing at all about it. I worked of a night and slept of the day when I could, and I didn't go nowhere except to the boarding house to get my meals.
Q. What did you do there, what did you work at?
A. I watched the fan there.
Q. Did you guard the fan? A. Yes, sir.
Q. Did you have a gun? A. Yes, sir, I had a gun.
Q. What kind of weather was it? A. Pretty hot.
Q. Where did you sleep?
A. Just slept from one bush to the other, in the shade around, and sometimes on some old mattresses and things, that were down there to lay on.
Q. Speak up a little louder.

A. I laid around on those old mattresses for a while, and back up in that town in those buildings where there was no one living. I got my little bit of sleep that way.

Q. Now, when you were there did you hear any rumors or talk about any trouble coming?

A. Yes, sir, that met me next day.

Q. What was that? What was the talk and rumors around the camp?

A. They said they would not let a man that came there
1913 to Prairie Creek outside at all, without getting skinned pretty bad before he got back in, and maybe never get back in.

Q. Was there any talk about anything that was going to be done to the property, or the people on the property?

Mr. Neal: I think this conversation is improper, what the parties in the stockade were talking among themselves, but if it was outsiders talking, it would be.

The Court: It would not be proper.

Mr. Drinker: The rumor is the rumor in the camp of what was going to happen to them, and our position is that it is proper to show the general feeling in the community, of a general attack.

The Court: The fact that there was a rumor and what sort of a rumor, but you have gone that far now.

Mr. Drinker: I have not asked him what the rumor was about.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Q. Now, don't say what anybody told you, but was there any well defined rumor in the camp, or feeling in the camp, that an attack was going to be made on it?

A. That was the opinion everybody; you talked to everybody there, and that is all I knew about it. It was inside there.

Q. Was any time fixed in connection with that, as to when the trouble was going to happen?

A. Well, they told me that it was just as soon as they went to hoisting coal there, that they were going to make a break on us.

Q. Who?

A. They said that the union men were going to do it. That is what they told us there, whether it is true or not, I
1914 don't know.

Q. During the week that you were there up until the night before the 17th, did you hear any shooting going on?

A. Yes, sir, they had a good deal of it.

Q. Where?

A. It was back,—right over this way (indicating).

Q. North or south?

A. Well, I wouldn't know where north or south is there. You know where the fan is, that fan, it was back this way to the right of the store.

Q. How far away did it sound?

A. They were going right up the railway or dirt road. I don't know whether they was any dirt road there or not, but they were shooting right along, I never heard such a racket in my life.

Q. I don't mean the day of the battle, but before that?

A. That is what I am talking about; I believe it was the night before this happened, a night or two before; and there were 75 or 100 guns, or more, they were fired there; and me and my son were right there at the fan, and they went up through there, shooting and hollering, that gang of men did

Q. Were they company men, or men you didn't know?

A. People I didn't know, I didn't see them to know anything about them, but all the men in the camp said that is what it was.

Q. Said what? A. That they were union men.

Q. Now, when you were in the camp during that year, did you hear of any of the company men going over toward Frogtown? A. No, sir.

Q. Or doing any shooting there? A. No, sir.

Q. You didn't hear that?

A. No, sir, not that I recollect of.

Q. Did you hear of any of the men going anywhere
1915 outside of the camp?

Mr. Neal: You can ask if they did go, but what he heard about it is not competent.

The Court: No.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Q. Do you know of any of the men going out of the camp?

A. There was a man there that they called big boy, that went around. He told me this out of his own mouth.

Q. I don't want you to tell what he said. On the night of July 16th, that is the night before the battle, where were you?
A. I was at that fan.
Q. What were you doing there?
A. I was guarding the fan there.
Q. What time did you go to work there?
A. I went to work, I believe, as well as I recollect, at six o'clock in the evening.
Q. Who was with you? A. My son.
Q. Your son Andrew? A. Yes, sir.
Q. How long were you there?
A. Well, we were there,—how long I had been there that night?
Q. Did you stay there all night?
A. I stayed there all night, yes, sir.
Q. Did anything happen in the night to attract your attention?
A. Yes, sir, it excited me right sharply, and all like it.
Q. About midnight what happened?
A. They started,—something got wrong with the lights.
Q. Describe what happened?
A. And it would shake and [quicer] a while, and then it would light up and go out, and along a little while before daylight it all went out.
Q. Did it come on again after that? A. No.
1916 Q. Was that all over the camp that the light went out?
A. I suppose, it was out where I was at.
Q. Now, after the light went out, did anything happen specially during the rest of the night until daylight?
A. No, sir, not that I know of.
Q. About daylight what happened?
A. Just along, immediately after daylight, when thy come there to relieve us from our post, we went down in town to get our breakfast, at a lunch house, or boarding house, and we all ate breakfast, and this William Sanders asked me and Andrew if we would help him carry up a bedstead that he had made a deal there with some lady, I don't know who she was, and put it up in his house, where we were aiming to sleep, you know, and I told him, yes, we would take it up for him or help him. And old man Johnson done the same, and they went in there and put the stead up, and about that time it got pretty warm, and it was getting hot in the day, and I stepped out the door like, and I said, "Hullo, boys, looka yonder, what a smoke, what does that mean". And about that time they commenced shooting down there. There were four or five guns fired down there, and directly they just commenced to play a tune shooting, and the buildings were burning. This William Sanders'

wife was right a young girl before she was married, and she hadn't been married but a very few days, but was only about 14 years old when she was married, and she had no sense, and she took right off up the hill as hard as she could go, and I said to Andrew, "You overtake her and tell her to stop", and William Sanders took after her, too, and they kept going right on up the hill, on up that little clumps and stuff, and my son got up there and hollered, "Pa, come on", and I walked up the hill, not thinking it was anything as great as that,
1917 and then I looked down and seen them coming up through that hollow, that street there, and men, it loked like there was a million men, and shooting, too, they were not playing.

Q. What were they shooting?

A. Shooting everything, shooting up the town.

Q. Shooting toward you or away from you?

A. No, they didnt see me yet? It was a little way to my right, and we were going up this way, and the boy could never overtake William and his wife at all, and they went right on across the hill some place, and hid, and I went up with my boy, my son, and got up on the hill.

Q. Who else went up with you?

A. No one; him and me stayed down there, and that big explosion went off then.

Q. Where did the big explosion go off?

A. Right about the fan there.

Q. What time was that?

A. That was along betwixt seven and eight, I wont be positive.

Q. Then where did you go?

A. It throwed so much trash and rock and stuff there, and I said, "We had better move up the hill a little bit further."

Q. What threw the rock and stuff there?

A. That explosion; and we got up and went around the hill a little piece, and when we got over there, there was Thomas and his wife and the children of Shilly Owens.

Q. Who is Shilly Owens?

A. Just a man there that called himself Shilly Owens.

Q. How many children of his? A. There were four.

Q. Was he there?

A. No, him and his wife aimed to go there with them, and they seen the fire going on inside, and he said, "Lord God, Mr. Dougherty, there's [is] three hundred dol-
1918 lars' worth of stuff in my house."

Q. Who said that?

A. Shilly Owens. And he said, "I had better run back and throw it out"; and I said, "Throw it out, nothing! If they burn the house they will burn your things, too, even if you do throw them out". But he and his wife run back like they were crazy, and I kept the children there with me, and my son.

Q. Who else did you find there with the Thomases?

A. There was another man up there, and his wife; I forget his name, Schaeffer, or something like that.

Q. How long did you stay there?

A. I stayed there about an hour and a half or two hours.

Q. All that same crowd together A. Yes, sir.

Q. Then what was the next thing that happened? During that time did you hear any shots going on?

A. Oh, Christ Almighty!

Q. Continually?

A. Yes, sir; and the smoke.

Q. Now I want you to describe, so that the gentlemen of the jury will get an idea, as to how much shooting there was going on during that hour and a half?

A. I couldnt tell for my life, if I was on oath, there must have been a thousand or two thousand shots fired from the reports, and I was a little excited, and not much excited, neither.

1919 Q. Could you see where the shots were coming from then? A. No, not then.

Q. Where were you then?

A. Still back on the ridge.

Q. Could you see the people shooting from where you were?

A. No, I seen them shooting as they came through the camp.

Q. When you saw them shooting, coming through the camp, could you see the direction they were shooting at that time?

A. Yes, right up toward the fan.

Q. Right up toward the fan?

A. Yes, it seemed to me this was the direction they came from (indicating.) I may have it marked off wrong. They were coming off from the Hartford road.

Q. Were they shooting into the company property, or away from it?

A. In toward the company property. And you could hear the bullets rattle. There was some low punky timber. And it was up there.

Q. When you were up at the place with Thomas, and these people, did anyone come up to you? A. Yes.
Q. Who?
A. Two men, I don't know their names.
Q. Did they have guns with them? A. Yes.
Q. How many guns?
A. One of them had three, and the other had one.
Q. Did they say who they were?
A. They never told me who they were.
Q. Did you hear any conversation between them and Thomas, or your son or anybody, when they came up there?
A. No.
Q. You did not hear it? A. No.
Q. What did they do when they got there?
A. They came on up there and just threw their guns on us and told us to surrender. I said, "We have al-
1920 ready surrendered". "What are you doing here" he said, and I said "I am here to try and take care of myself and our women and little children". And they threw their guns on us and they commenced talking among themselves, and they kind of calmed down.
Q. Who did the talking?
A. I talked myself, and so did my son. No one else but me and my son talked.
Q. Where was Mrs. Thomas at that time?
A. Right under the hill there, just a step or two away, and she fainted. She was awful weakly anyhow and she just dropped down, and this man said he was a preacher—
Q. (Interrupting.) Was he one of the two men?
A. Yes, he said to me, "Hold my gun" and I took hold of his gun, and he said it was empty. It was a shot gun, and old style shot gun, and he said it wasn't loaded. I didn't care, I didn't look to see whether it was loaded or not. And they brought the old lady to life and he got hold of her by one arm and Mr. Ewing Thomas under the other arm and they carried her off down the hill. He said, "You fellows come on and let us go to headquarters."
Q. Did he say where headquarters were?
A. Yes.
Q. Where did he say headquarters were?
A. He said it was at Hartford.
Q. Did those two men have any marks on them to notice?
A. Yes, they had a handkerchief tied around the left arm, right there (indicating).
Q. Both of them?

A. Yes, both of them, and pretty well all of the rest of them.

Q. What was the color of the handkerchiefs?

A. A white one.

1921 Q. Where did you go with them?

A. We went out down the hill, and we came to a slat and went on down toward Hartford, and someone said something about some water for the women and children, that the women needed water awful bad, and so this preacher man said, "Come on, I know where there is a fine spring, and we will go there and get some water".

Q. Did you see any men on the way to the spring?

A. Yes.

Q. What were they doing?

A. Scouting around the hills.

Q. Did they have any guns? A. Yes.

Q. Did any of them have white handkerchiefs around their arms? A. Yes, sir.

Q. How many of them?

A. I could not tell you how many, just about all of them had these handkerchiefs around their arm.

Q. Did you see any shooting?

A. Yes, there was some shooting going on above the hill. At the spring he said, "Look down yonder, what a crowd. We won't go down to that spring, we will go to a well down here on the side of the road."

Q. Did you see any horses, as you were going along?

A. I never seed no horse, I seed a mule.

Q. What was the mule doing?

A. The fellows there said they were ammunition men; the men that had us said, "they are distributing ammunition".

Q. To whom?

A. To them boys, he said.

Q. To the ones with the white handkerchiefs on their arms? A. Yes.

Q. What did you do when you got to the well?

A. He asked me to help carry up a bucket of water and I and my son did that. And we went up and they was

1922 drinking the water pretty heavy and most of the men there was dringing the water. And they got a couple of more buckets full. And there was a man right there by the name of Shavers or Shavis, or something or other, and he had his pit clothes on, and this fellow that was there said, —he said after looking at him well, "God damn your soul I know you" and he said, "I don't know you" and the fellow

said "don't you go denying my not knowing you". I know you, and he called him by name, Shavers or Shavis or whatnot. He was a low, dark skinned man and he turned to him and said, "Look yonder, God damn your soul, this is the second time, and the third time ought to be the charm." "You see that high tree yonder on that mountain?" And he looked and said "Yes". His wife and children was there with us and this fellow said, "You make through that fence and make for that high tree and don't you never look back." And he took him at his word and I never saw a man run so in my life, you could see that corn wiggle that way (indicating). Then he turned to me and laughed and he said, "God damn him, if someone don't kill him on the road, the damn snakes will eat him up."

Q. Did you see any men there that you knew by name?

A. Right there at that place?

Q. Yes. A. No, sir, I didn't.

Q. Did you see any men along the road you knew?

A. No, not that I recollect of.

Q. You did not see any one whose names you knew,—any of those men? A. How is that?

Q. Did you see any men going along that you knew by name? A. No.

Q. Any of these men with white handkerchiefs?

A. No, sir.

1923 Q. Did you know any of them by their names?

A. No, sir, I didn't.

Q. Now, where did you go when you left that well?

A. I went straight on to Hartford. I didn't hesitate much longer. I went on down there.

Q. Did you know who the man was that said that to Shavers?

A. He said his name was Pattie. I don't know anything about it.

Q. Did he say what the rest of his name was?

A. Charles Pattie, I think he claimed it was.

Q. When you went from the well, where did you go next?

A. We went right straight on down there, and they got a wagon—some kind of a carriage.

Q. Who got the wagon? A. This preacher man.

Q. Do you know what his name was?

A. No, sir, I don't know what his name was.

Q. Did anybody ever write his name down where you could see it?

A. I can't read. There was some gave my son some addresses—how to address letters back down there to them.

Q. Did he give his address?
A. I think he did.
Q. Now what condition was Mrs. Thomas in when you were bringing her along?
A. She was in a most bad condition. The way she looked, I thought she was going to die.
Q. Who took her along?
A. Old man Thomas took her along, her husband, and Perry's wife.
Q. Who went in the wagon?
A. Mrs. Perry and those little children was along, the Owen children and Perry's children, and this other strange man to me who ran through the field—his wife and children.
Q. When you were going along the road did you meet any people?
1924 A. Yes, we met people going along the road, scores of them.
Q. Did any of them have guns?
A. Plenty of them, and pistols too.
Q. Did any of them have white handkerchiefs?
A. I don't think they did, coming up this way, as I recollect now.
Q. Did any of them talk to you?
A. Not there, they didn't.
Q. Did any of them say anything you could hear, as you went along?
A. Yes, they said "There goes the God damned scabs right now".
Q. Who said that one or two of them or numbers of them?
A. A good many of them said it "There goes a lot of scabs", "there go the God damned scabs. They have broke the God damned scabs nest up." They said.
Q. Who said that?
A. That crew that was along there, meeting us.
Q. When you got to Hartford, where did you go?
A. We stayed around there a little while, and there came a fellow in there—
Q. (Interrupting.) Where did you go when you went to Hartford? Where did they put you?
A. Back over in a place like a hall, say here (indicating) and we went in a kind of building along here (indicating) somewhere.
Q. Do you know what kind of a hall it was?
A. They said it was the Union Hall.
Q. And you were in the next building to that?
A. Underdeath it, right to the right.

Q. Did you all go in there?
A. Yes, we all went in there for a little while.
Q. Did any of the people that brought you up go in
1925 there with you?
A. Yes, sir, lots of people, men and women, too, came along there to have a talk with us.
Q. Did you see this fellow Pattie there?
A. I saw the same man that said he was Pattie.
Q. Did he talk to you about anything that had happened back at the mines? A. Yes.
Q. What did he tell you there?
A. Well, he said, "They have tore up everything this time. Boys, I am sorry. You too look as if you ought to be good men, and I am sorry they have excited you fellows that way." He said, "The other fellows that is there"—we had been there but a little while—until we got a chance to realize what the trouble was.
Q. Did he say anything to you about what had made,—did he say anything to you about that big explosion you had heard? A. Yes.
Q. What did he tell you about that?
A. He talked on right smart about it below there a little piece, and he said, "There was a stick and a half of dynamite or a case and one-half of dynamite."
Q. A case and a half of dynamite?
A. Yes, a case and a half of dynamite, "And we blew it to hell."
Q. Did he say who put it there?
A. No, he didn't say who put it there; he said, "We blew it into hell."
Q. When you were up there did people come in and out of the place all of the time, or were you left there by yourselves? A. In that house?
Q. Yes.
A. There was some people in and out until after they took J. J. Johnson's evidence.
Q. Tell us about that.
A. They moved us across over in another house.
1926 Q. You mentioned taking J. J. Johnson's evidence; what was that?
A. They took him there, and they said they wanted him to give a statement of what was done there, and all like that, and wanted us to state this, "Now you fellows want to swear that them guards fired on us first,—fired on these men." And I said, "Brother, I couldn't do that, you know I couldn't. There was not a shot fired from inside there that I know of." The first shot I ever heard and all I ever heard out there was

in Frog Town and you people as you came along. Only the other night there was a great gang going up, they said towards Midland, and they fired guns.

Q. Keep your voice up Mr. Dougherty.

A. So they took old man Johnson down yonder and kept him an hour or an hour and a half maybe, and he came back out, and he was sweating pretty heavy when he came out of there, and he said "Boys, I will tell you that is a tough place. I will tell you, they want you to tell everything in the world that you know and that you don't know. Just answer their questions. I had to do it." I said, "I ain't going to swear to any lie. They can kill me if they want to, but I am going to swear the truth," and I am. I don't care what comes or goes, I ain't going to swear to any falsehood, if I know it, not for myself nor anybody else, except it would be I would swear false to keep from being killed or save my neck from being hung.

Q. Never mind that. Did you see any friends of yours when you were there in that room, anybody you had known before?

A. Yes, sir, I saw one there. I saw several men there, but I can't remember their names.

Q. Do you remember seeing anybody you had known before?

1927 A. Yes; a fellow came there to me by the name of McDonald.

Q. Where had you known him before?

A. He was raised right there by me in Tennessee.

Q. What was his job?

A. He was digging, I guess.

Q. He was a coal digger? A. Yes.

Q. Did he tell you he was? A. Yes.

Q. He was in there with the rest of these men?

A. He said he was.

Q. I don't mean that—did he come into the building where you were with these Union men?

A. Yes, he came in there with them in the building there and discovered me.

Q. Was he one of the same crowd?

A. Yes, sir, and he came up to me and shook hands with me and he said, "Why, God damn it, I understood you had gone home and left here." And I said, "How did you understand that?" And he said "Horace O'Neal came up from there and he said you and your son was gone from there. I went to the big gate two or three times, and took a buggy up there to take you out, but they said you were gone."

Q. When did he say he was there?
A. Two or three days before this destruction happened.
Q. Did he take you over to his house that night?
A. Yes, sir, he asked the authorities there—he said he would stand good for us and all like that.
Q. Did he tell you why he wanted to take you out of there?
A. Yes, he said he wanted us to go home with him, that he didn't know what would happen to us, but he didn't believe anything would happen to his house.
Q. I don't mean why he took you to his house, but why he came to get you out of the mine two or three days before?
1928 A. Well, he said there was going to be hell played over there and he knowed me and my son. He used to play with my son Andrew and wrestle around at Briceville, Tennessee, and he didn't want us to be in that skirmish, that he expected everyone to be killed, and he told me and this man Pattie, that there was not a living man left up there, and that is a lie, because I have seen them all since.
Q. Did you go home with him to his house? A. Yes, sir.
Q. Did you have any more talk with him at his house?
A. Yes, sir, we talked there a right smart while until late bedtime.
Q. Do you remember anything else he told you about what happened down there?
A. Yes, he said that them boys all came, "he said I will tell you English, there are about 6000 men—"

Mr. Warrum (interrupting): If the Court please this is a conversation at the house with Tom McDoanld, we never heard of, and he is not a defendant in the case, and this private conversation between him and McDonald is not competent.

Mr. Drinker: He was there with the crowd of them all the time.

The Court: Objection is overruled for the present anyway.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted and still except.

Q. Go on, Mr. Dougherty and say what he told you at his house.

A. He said there was 6000 union men that were there, that came over out of Oklahoma, and Hartford, and back over at

another station back there—I disremember what place.
1929 Anyhow there was 6000 of them, and they drunk since they went into their meeting over there 13,000 gallons of whiskey.

Q. 13,000 gallons?

A. Yes, that is what he said. Tom is a pertty good wind jammer, I know that.

Q. Do you think he meant that or was he exaggerating?

Mr. Warrum: We object to that question.

The Court: The objection is sustained.

A. Did I say 13,000 gallons?

Q. Yes. [—] 1300 is what he said.

Q. Was anybody there with you and him when you were talking there? A. Yes, my son was there.

Q. Was there anybody else there? A. Yes.

Q. Was his wife there?

A. Yes, his wife was there and the two children. His wife said, "Now Tom, look here, old fellow, don't be talking that way. Mr. Dougherty might happen to be a witness." And Tom stopped then and didn't talk any more. But he took care of us that night and gave us supper and breakfast.

Q. The next morning where did you go?

A. He went with us a piece towards the place down there, and he said "Right yonder is where you fellows have to stop; I have some business." And I said, "I would rather you would go down with us, Tom" and he said, "I will be down in a few minutes," and he turned and walked away.

Q. Did you see him any more after that?

A. I don't recollect I did, and I don't believe I did.

Q. What became of all of you the next morning?

A. We just stayed around in that place all that day.

Q. All of Saturday?

A. Yes, all day Saturday. When this mayor of the town took me and my son down to the depot, I was going to wire for a ticket for me and him, and these other folks
1930 and he said he would ticket them all. I told him I could get money enough there to get home on if I just had time to. And they went on down there and then Saturday evening late this Mayor, or a man they claimed to be Mayor, I don't know whether he was or not for sure,—but anyhow he came to me and my son and told us, he said, "I will have your tickets fixed out in the morning with the other people." And so, Sunday morning before breakfast they got ready and taken us down to the train, to the depot, and he gave us tickets and told us to go. I said, "My fare will

be here in a little while, I guess'' and so it did, but not before I left.

Q. When were you in the warehouse with those men did they say anything about any other non-union mine around there?

A. Yes, they talked about Spadra and a place they called Wheelbarrow, ain't there a place called Wheelbarrow? And Jamestown.

Q. What did they say about that?

A. They said that they were going to wage on *them*. That was not Tom told me that.

Q. Who told you that? A. Pattie.

Q. What did he say?

A. That they were going to wait on that place in a few days, and just like they did at Prairie Creek.

Q. Did they say anything about the attitude or feeling in Hartford in connection with the Union?

A. Oh, they said everything,—that there was not a man there but that belonged to the Union. I told them I had to have a little tobacco, and they said I couldn't get any tobacco if I wasn't a union man. He said, ''You can't get it, I will get it for you''. And I was a stronger union man than he was, if he had just known. And he went and got the
1931 tobacco himself and let me out. I paid for the tobacco myself.

Q. You took the train on Sunday morning, did you?

A. Yes, sir.

Q. Where did you go to then? You need not describe it in detail; did the crowd go with you? A. Yes.

Q. When did you go back to Coal Creek or Briceville, Tennessee?

A. We left Sunday morning and run into Little Rock. Sunday night we got there I think, and we got home Tuesday.

Q. You have said that some of those people gave your son some slips of paper with names written on them. Have you got those slips of paper with you? A. Yes.

Q. Get them out, please.

A. Here they are (witness produces slips of paper asked for).

Q. Where did you get these?

A. I got them from my son.

Q. When did he give them to you?

A. He never gave them to me until we got home.

Q. What did you do with them after he gave them to you?

A. I just kept them in my pocket a long time, and then had them filed away with some other old papers there, and finally I went and put them in the bank. You can see the bank cashier's name on them.

Q. Have they been out of your possession since the time they were given to you except when you put them into the bank? A. No, sir, they never have.

Mr. Drinker: I have had these slips of paper marked for identification Plaintiffs Exhibits 42 and 43.

A. (Continuing.) I hate it about that trouble as bad as any man.

Q. Did McDonald tell you where he worked?

1932 A. I can't tell what mine he was at at that time, where he was working at.

Q. Did he tell you whether it was a union mine or not?

A. Yes, he said it was a union mine. He said everything was union.

Mr. Drinker: You may cross-examine.

Cross-Examination

By Mr. Grant:

Q. Mr. Daugherty, what time did you get over here from Tennessee to go to work in the mine at Prairie Creek?

A. Well, it was July somewhere, about maybe the 8th or 9th or 10th. I could not tell exactly when, to save my life, but it was right along about that time.

Q. What character of service were you to perform in that mine, or about that mine?

A. Well, I was expecting to keep the stable.

Q. To do what?

A. I was attending to the stable. They told me that would be my job, this man Thomas did.

Q. That is the man that employed you to come over here?

A. Yes.

Q. He employed you at Briceville, Tennessee, did you?

A. Yes.

Q. And you came over to go to work in the stable?

A. Yes.

Q. And you got over here about the 10th of July?

A. Yes, sir, about that time.

Q. What did they put you doing, attending stable or doing something else?

A. They put me watching at the fan, to keep it from being torn out.

Q. Did they give you a gun? A. Yes, sir.
1933 Q. What kind of a gun was it they gave you?
A. It was one of the high power guns.
Q. A high powered rifle? A. Yes, sir.
Q. How many rounds of ammunition did they give you at the time they gave you the gun?
A. Well, they gave me, sometimes I would have two or three or four, and sometimes more along that way.
Q. What did they tell you to do with the gun when they gave it to you?
A. Well, sir, they never instructed me to do anything with it, only to take it there for protection to myself.
Q. You were working in the capacity of a deputy United tates Marshal, were you, or were you working as a private guard at the mine?
A. Well, sir, a man came to me and told me to go up there and watch. I don't know who he was. I don't know whether he was with the company, or it was intended to be the United States Marshal or not. You see I never had learned a thing in the world. I had just been there a short time and never got on to hardly a thing.
Q. Did you ever fire the gun while you were working there?
A. No, sir, I never fired the gun in my life.
Q. Did you work night or day? A. Night.
Q. How many nights did you work at guarding at that fan house? A. Five nights, that is all I worked.
Q. What hour did you go on duty, and what hour did you go off duty?
A. Well, sir, I really don't know at what time in the evening I went on, but we came off at 6:00 o'clock in the morning, and I believe we went on at 6:00.
Q. Give us the best information you have about the
1934 time you went on duty in the evening.
A. I believe we went on at 6:00 and came off at 6:00.
Q. You had something in the neighborhood of a 12-hour shift? A. Yes, sir.
Q. Who was working with you? A. My son.
Q. You and he were guarding at the same place, were you? A. Yes, sir.
Q. Now, on the [neight] before this trouble, on the 17th, you have spoken about some shooting around out there. In what direction was that shooting from the mine with reference to the town of Hartford?
A. It was back in there sort of towards the place called Frogtown.

Q. You do not know who was shooting back there at Frogtown, do you? A. No, sir, I don't.

Q. About what time in the night did that shooting back towards Frogtown begin?

A. Really I don't recall. It was somewheres about 7:00 or 8:00 o'clock. It commenced in the fore part of the night.

Q. How long did it last?

A. Oh, it was such scattering shooting now and then. It was not continual at all.

Q. Did it keep up all night, or just a part of the night?

A. It didn't keep up all night, but just a part of the night.

Q. Did it keep up until 11:00 or 12:00 o'clock?

A. I think so.

Q. Then you never heard any shooting firing in that direction after 11:00 o'clock?

A. Not until the next morning, to the best of my recollection.

Q. How many guns were in that camp?

A. Brother, I could not tell you.

1935 Q. There was a great many, wasn't there?

A. There was not but a few guns, I don't think I never saw them if there was.

Q. You and your son were not the only guards, working there? A. Oh, no.

Q. Was there a boarding house, or house, inside of the stockade there where the guards slept?

A. I never seen any stockade there.

Q. Or a place where the guards slept, those that worked at the mine, didn't they have a place to sleep?

A. Yes, they had a place for the day men or the night men to work and a little bunk house fixed for some of them to sleep in.

Q. How far were you from the sleeping quarters the night you were guarding the fan, when you say the shooting was taking place up toward Frogtown? A. What?

Q. How far was it from where you were stationed over to the bunk house where you say the day guards slept?

A. Between a quarter and a half a mile.

Q. And you never went to the bunk house during that night? A. No, sir.

Q. You stayed there at the fan house all night, from the time you went on duty? A. Yes.

Q. And you were not over to the bunk house where the men slept that night? A. No.

Q. When did you come over here, Mr. Daugherty to testify in this case? A. I came here Monday.

Q. You came here last Monday? A. Yes, sir.

Q. You came here as a witness or did you come at the request of some one?

A. I suppose it was a subpoena. I was notified by
1936 the company to come.

Q. Did someone write you a letter to come?

A. Yes.

Q. Was it a Mr. Curtis? A. Yes, sir.

Q. Did Mr. Curtis go over to Tennessee, to Briceville, to talk to you about this matter?

A. Yes, he came to Tennessee.

Q. He talked to you before the depositions of Mrs. Perry and others were taken at Briceville?

A. That is the first time that I saw him.

Q. Your deposition was not taken there was it?

A. Not that day it was not at the same time these others were. It was taken the same time Mrs. Perry's was.

Q. You mean at that time you made a statement or gave your deposition before the Notary Public?

A. I gave a deposition before a Notary Public.

Mr. Grant: Was his deposition taken?

Mr. Drinker: No, his sworn statement was taken.

Q. Then, you made a sworn statement before a Notary Public and gave it to Mr. Curtis? A. Yes.

Q. And your deposition was not taken? A. No.

Q. Mr. Curtis is a detective for the Bache-Denman people, in this city? A. I don't know that.

Q. Do you know what his business is? A. No, sir.

Mr. Grant: That is all.

Redirect Examination

By Mr. Drinker:

Q. Mr. Daugherty, you made a statement that you knew I was in Clinton (?) the same day Mrs. Perry was?

A. Yes, sir.

Q. Was Mr. Curtis there the day you made that statement?

A. I believe he was,—no, I don't think he was in the
1937 house when I made that statement.

Q. Was I there?

A. No, I don't think you was. Mr. Bache was there,—yes, you came in there.

Q. And the Notary Publice was there? A. Yes.

Q. And the Notary Public wrote it down on the typewriter? A. Yes, sir.

Q. And the next day you swore to it or was it that night?

A. I swore to it that night.
Q. But you were not examined by the other lawyers at that time?
A. No. That statement that I made there is just as correct as the sun is going down.
Q. I see. Did you make the same statement there— did you say the same things that you have here?
A. I think I did just as near as I know how.

Mr. Drinker: That is all.

Mr. Grant: That is all.

(Witness excused.)

1938 ANDREW DAUGHERTY, called as a witness on behalf of the plaintiffs, having been sworn, testified as follows:

Direct Examination

By Mr. Drinker:
Q. State your full name. A. Andrew Daugherty.
Q. You are the son of English Daugherty who just testified? A. Suppose to be, yes, sir.
Q. Where do you live?
A. I live in West Virginia.
Q. What is your business? A. Coal digger.
Q. How long have you been a coal [diggere?]
A. I have been a coal digger something like about 25 or 30 years,—something like that.
Q. How old are you?
A. 46, the 24th day of this month.
Q. Have you a family? A. Yes, sir.
Q. What? A. I have a wife and seven children.
Q. Seven children? A. Yes, and myself and wife.
Q. Are they all living with you?
A. No, only five are at home, two are married.
Q. Now, in June and July of 1914, where were you living? A. I was living at Slaystone.
Q. What were you working at? A. Digging coal.
Q. Take your hand away from your face, Mr. Daugherty. Every one here has to hear you. When did you first hear anything about coming over in this direction?
A. Well, I met this man Thomas, Hugh Thomas, I believe they called him.
Q. Hugh Thomas?
A. Yes as far as I know that is his name, and he had been down here, he said, I don't know whether he had or not.

Anyway he said he had been down here and come back
1939 and was going to move back, and he got me and my father to move back. There was me, my father, Tom Perry, John Martin, old man Thomas' son Will, and Perry's wife, William Sanders and his wife.

Q. Any children?

A. Yes. There were some children, I don't know how many. The Perry's had two or three.

Q. Did you bring your wife and children?

A. No, sir, I didn't.

Q. When did you come to Fort Smith?

A. Fort Smith.

Q. I mean to Prairie Creek.

A. Well, I believe it was somewhere about 9th or 10th, I am not sure.

Q. What day of the week was it?

A. It was on Friday.

Q. You came there on Friday, the Friday before the battle? A. Yes.

Q. You were there a week?

A. Yes, from Friday to Friday.

Q. What did you do?

A. Guarded and night watched there at the fan.

Q. With your father? A. Yes.

Q. Where did you sleep?

A. Sometimes in the house, and sometimes in the shade of the bushes.

Q. How many nights did you guard?

A. I made about four or five shifts I believe five shifts is what I worked.

Q. When you were there did you hear any general talk around the camp, that anything was going to happen about the camp?

Mr. Warrum: The defendants severally object to the leading and suggestive character of the question in the first place, and in the second place because it calls for statements about rumors and would not be binding upon these defendants.

The Court: Objection sustained.

1940 To which ruling of the Court, the plaintiffs, and each of them, then and there duly excepted and still except.

Q. Did you ever go out of the camp? A. No, sir.

Q. Did you know of any company men ever going out of the camp, doing any shooting near?

A. No, sir, I don't remember that I did.

Q. Did you ever hear any shooting out of the camp?

A. I don't remember that I did. I heard a little shooting around the camp there at night, a shot or two, but I don't know who was doing it.

Q. The night before the 17th, were you on guard at the fan house with your father?

A. Yes, sir.

Q. In the middle of the night did anything happen?

A. Yes, sometime along in the night, I don't know just what time it was—but sometime along in the night the lights began and kind of went out, kind of darkened down, and me and my father we set at the edge of the bushes just above the fan, and the lights went down and then came back up, and then snapped out and went out. I don't know what time of night it was, but they were dark from that time on until daylight.

Q. Did anything else happen during the night?

A. Along about 4:00 or 5:00, or between 3:00 and 5:00, somewhere, I ain't sure about the time. There was a terrible volley of shots fired toward the school house, towards No. 4 camp. I don't know whether it was No. 4 camp or not, but it was at the mine there, it was back toward the school house.

Q. Did you see who was doing the shooting?

A. No, sir, it was kind of dark and I could not see.

Q. How soon after that did you hear any more shots?

1941 A. Those shots were fired and it was quite until after breakfast. We stayed at this place until this man came and relieved us.

Q. Who came and relieved you?

A. The first man that came I don't know who he was. He was the man on day duty, and this man Hugh Thomas I think was the next man, as well as I remember. I don't know the other fellow's name at all.

Q. And you went back to breakfast?

A. I went from there to my breakfast?

Q. What happened then?

A. I went on over to breakfast and ate breakfast and then this fellow Sanders and his wife was there and they ate and we were standing out there in the shade of the bushes below the eating house, talking, and Sanders said to me, "Come on, you and your Daddy come on over to this house over here and help me get a bedstead over to the house so we can stop sleeping on the floor" and he pointed to the house the bedstead was at. And we went and got the bedstead and taken it to the house. Me and Sanders and his wife and J. J. Johnson taken it up to the house; and when

we got to the house we went and sat down in the shade of some bushes talking, and we were not talking over four or five minutes when I heard some slow shooting down to my left. They said it was No. 3 camp where it came from, and I got up and looked down and me and Johnson were sitting there, and Sanders and his wife were sitting on the porch, and she had her shoes off and was in her stocking feet. I looked and I couldn't see anything but the smoke, it was a long ways and I could not see the men at all. They kept shooting and it kept getting hotter and hotter, and then me and my father went on to the left, to that mountain and

Sanders and his wife went through the house, she got
1942 her shoes and she ran on as far as I could see her.

We tried to stop her and we couldn't. We went over the hill and stopped on this side. And I said to father, "Let us go up higher on the hill", they were shooting so much.

Q. Could you see where the shooting was coming from?

A. No, it was in the woods.

Q. Did you see any of the men doing the shooting?

A. No, I didn't see anyone shooting, I just heard it. I was out in the mountain, in the timber, and could only hear the reports.

Q. Where did you go then?

A. I went on to the top of the hill after things quieted down, to see if I could see Sanders and his wife, and I could not find them, And then I said to my father, "Let us go to the Mansfield." And on the way there we met up with Johnson and this fellow Thomas and two or three more men, with their families, and we went out to the end of that ridge, and it was bluffy on the other side and we could not get down, and I said, "Boys, we might as well stop here. Someone will come to us directly." That is about the remarks I made. We went up from our shanty and left all our coats there at that house, and then J. J. Johnson said he was going back for his coat and I told him he ought not to go back, but to leave it go, and he said "No, I left my coat down there and I am going back for the coat." And I said, "If you are going back, bring back my coat." And he went on, and I don't know what happened to him when he was gone, and he came back and brought our coats.

Q. Was the shooting going on all this time?

A. Yes, sir, it was going on now and then. It would die down again and come up again.

1943 Q. Did you hear anything except the shooting?

A. Nothing more than heavy jars of shooting, I don't know what it was.

Q. Did it sound like rifle shooting, or something else?

A. No, sir, it sounded like dynamite or something else, it was a heavy jar.

Q. What time was it?

A. I couldn't state what time it was. I had no time with me.

Q. What direction did it came from?

A. It seemed to me, from where I was, it was kind of back of me right toward No. 3 camp, towards that fan house.

Q. You said two men came to you? A. Yes.

Q. Tell about that, all what happened.

A. We were all sitting down, as well as I remember, on the side of the hill, and I heard something and I turned around, and some men came up up from No. 4, like they came up out of the camp.

Q. Were they men that had been working around in there?

A. I don't know whether they had or not. I didn't know the men at all. I was there only a short time. I didn't know any of the men when I got there.

Q. What happened?

A. Those men drew their guns down on us and asked me what I was doing . I said, "You see what I am doing, we are just here". They asked me why I was there and I told them I came there to work.

Q. Speak up, Mr. Daugherty.

A. He said, "Did you know this was a union country?" And I said, I didn't know whether it was or not. This is the man I came down with and he said this was an open shop and no disturbance. He said, 'I was run out of Tennessee for just such as that". I didn't know what he meant.
1944 I told him,—about that time the women and children went to squalling and Thomas' wife fainted. And when they commenced that he said, "Hold on, don't get excited, we don't aim to hurt anybody." And he said, "Women, don't get excited, we don't aim to hurt anybody." He said, "I will take you in to headquarters". And I said, "Where is headuarqters?"

Q. Is that all he said, before the women were crying?

A. I don't remember. He said [somethinr] or other—"You know this is a union country and we don't allow scabs to work in this country" or something like that. I won't be positive just what he said.

Q. Did one man do all of the talking, or did both of them talk?

A. One of them did most of the talking.

Q. What were the rest of them doing at this time? Thomas and the rest of them?

A. They were standing around there like they were scared to death.

Q. Where was Mrs. Thomas?

A. She was kneeling down like she was sick or faint, or something and Mr. Thomas was still working with her all the time. And then that man said "Don't get excited, we don't aim to hurt a one of you".

Q. Where did you go from there?

A. To the town called Hartford.

Q. On the way, did you see any people?

A. Yes, sir, I seen lots of men on the way.

Q. Where did you go first when you left that place?

A. I went right towards the way they said was Hartford, along the top of that hill. A part of the time I was
1945 on the top of the hill and a part of the time I was on the lower side, when they were shooting.

Q. Did you see any men when you went along there?

A. Yes.

Q. Did any of them have any guns? A. Yes.

Q. Did any of them have any marks on them that you noticed?

A. Yes, sir, I believe I saw them with those handkerchiefs tied around their arms.

Q. Around which arm?

A. I am not positive which arm it was. I know I saw several with white handkerchiefs tied around their arms, but I ain't positive which arm. I never paid any attention to that.

Q. Did you stop anywhere on the way?

A. No, sir, no where, only I believe at a well or spring.

Q. How many men were there around that well?

A. Oh, there were several men there.

Q. Did any of them have these handkerchiefs on?

A. Yes, sir.

Q. Did any of them have guns? A. Yes, sir.

Q. Did they talk to you?

A. Yes, they all talked, and that fellow that went out there with us—they would get off a part and talk, and everything was all right. I didn't know what they said. They said they were taking us to headquarters.

Q. Where did you go from there?

A. We went out that road from that well, on down to the place at the tipple where it was burned up; they said it was No. 3.

Q. Where did they say they were going to take you?

A. To Hartford, to headquarters.

Q. Headquarters of what?

A. I don't know what they meant by it. They said they were going to take us into headquarters.

1946 Q. Did you walk in, or how did you go in?

A. I walked in.

Q. Did the rest of them walk?

A. I am pretty sure all of the men walked. They got a little wagon and put that sick woman and children, or maybe all of the women they could get in there. I don't know just how many women and children they did get in the wagon. I think the women and children rode in that wagon.

Q. On the way in did you meet any one? A. Yes.

Q. On the way in did you meet any men? A. Yes.

Q. Did any of them have guns? A. Yes.

Q. Did any of them have white handkerchiefs on them?

A. I don't remember that I seen any of them we met coming that way that did,—coming from Hartford.

Q. Were they coming from Hartford?

A. Yes, sir, they seemed to be, meeting us.

Q. Did they say anything to you or at you?

A. No, sir, not that I know of. They were laughing and talking, and I didn't give them very much attention because I was pretty well worn out and excited and I didn't give them much attention.

Q. When you got into Hartford, where did you go?

A. When we got into Hartford, they took us down to an old building they called a Union Hall, that is on the first floor, as well as I remember.

Q. Did any of them come in there?

A. Yes, sir, they came in and out all the time we were there.

Q. Did any of them tell you what their names were there?

A. Yes, I believe there was several of them,—two or three.

Q. Who were they?

1947 A. One man told me his name was C. E. Pattie, I believe.

Q. Did any of the rest of them tell you what their names were?

A. Yes, there was two or three. I believe three of them gave me their address the morning I left there and told me to write them but I forget their addresses, and I forget their names. I cannot read and write my name. I just barely can.

Q. Did any of them write their names down or say they would write their names down?

A. Yes, all three of them gave me their names. They seemed to like me pretty well and told me to write them when I got home, and they gave me their addresses.

Q. Your father has handed me two slips of paper which have been marked plaintiffs Exhibits No. 42 and No. 43.

Will you look at those two slips of paper and state what they are, and if you remember receiving them, and if so from whom you received them?

A. Yes, sir, I remember the papers all right.

Q. Who gave them to you?

A. This fellow Pattie gave me this one (indicating).

Q. You are pointing to Plaintiff's Exhibit No. 42?

A. Yes, sir.

Q. Who gave you the other one?

A. When I went to start away that morning Pattie gave me this first, and then the other fellows acted pretty nice and when Pattie gave me his address I turned around to them and two more wrote their names but I can't read their names.

Q. Do you know who the men were that wrote their names?

A. No, sir.

Q. Were they the two men that came to you on the hill?

A. One of the men, this one Pattie did, and one of the
1948 other two fellows that went all the way with me.

Q. From where?

A. From the mountain into Hartford.

Q. He was one of the men that came to you on the mountain? A. Yes.

Q. What kind of a looking fellow was he?

A. A big, tall, red complected fellow I believe he said he had been a preacher, maybe a Baptist preacher.

Q. Was he a coal digger at the time? A. I don't know.

Q. Did he say that he was?

A. I don't remember that he said what he was.

Q. What did you do with those two papers?

A. I took them on home and I wrote these two fellows, this fellow Pattie and this fellow McDonald. I know I wrote to him twice and never got an answer.

Q. What did you do with the papers?

A. And to be looking over my books and papers when I left and I found them and gave them to my father saying they might be profitable some day and might not. I wrote to Pattie and the fellow McDonald, but either one of those fellows I don't know them except by name, what they told me.

Q. You speak about McDonald; where did you see him?

A. I saw him in the town they called Hartford. I never was there before.

Q. Where did he come to see you?

A. After we were at that hall I was telling you about, along in the evening they moved us up to some kind of a store house, and that is where McDonald came to me.

Q. Where had you known him? A. At Briceville.

Q. When had you known him there?

A. I had known him when I was a boy, a way back.

1949 Q. Who was there when he came in to see you?

A. Oh, there was quite a crowd there, there was a big crowd there from every direction. There was a young fellow came to me—I don't know how many men these fellows brought to me from Tennessee to see if they knew me or I knew them, and I didn't know them at all but this fellow McDonald, and I knew him.

Q. Was Pattie there at that time?

A. Yes, Pattie was right there. He was our guard and stayed right with us all the time. He stayed right in front of our door all the time that night, as well as I remember, and then this young man, this red complected man,—I don't remember whether he was on day or night, but those were the two that principally stayed at the door.

Q. When they were there, did they tell you anything about what had caused the trouble down at Prairie Creek?

A. I don't remember. They were talking about the Union being too strong for such things to go on. I would not state positively, because I don't remember.

Q. Did McDonald talk to you about it at that time?

A. Yes, McDonald said to me that evening after we got to talking, "I was so afraid you and your father had gone up" I believe he said "two or three times I have been to that gate at them camps and called for you and your father and the gate man told me you were not there."

Q. Did he say why he wanted to go down there to see you?

A. Nothing more than he said "he would have hated it if we had gone into it and got killed".

Q. Did he say he knew there was danger of your getting killed?

A. Yes, sir, I am pretty sure the way he talked he thought there was some danger.

1950 Q. Where did you go? Did you go to stay at his house?

A. Yes, from there we went to his house. When he came to me he said to me and my father, "I want you to go home with me and stay all night." And the Mayor was standing around there, at least they called him the Mayor of the town, and he said to him, "Old man Daugherty is going home with me and also his son, to stay with me tonight, will it be all right?" And the Mayor said at first no, that we had better stay here, and they went off and talked a little while and then they came back and said it would be all right, and we went up with him and stayed all night with him and took breakfast and came on back down town and when we got down town we met some fellow I don't know who he was, and he said

for me and my father to stay around pretty close, that he wanted to take some depositions some time and I said all right, and we went back to the house. That was Saturday. Saturday evening McDonald said, "I think I can get you off in the morning and you can go home" and I said, "All I want is to go to the telegraph office and telegraph for money to buy a ticket to go home on", and we went down there and father paid for the telegram, and it was late and they could not get it off that Saturday, and the next day was Sunday and they knew they could not get it off then, and when Sunday morning came, they had us all ticketed, the whole bunch of us. And on Sunday morning they started us home.

Q. Then you got home in two or three days?

A. I got home in two or three days, I believe. Monday or Tuesday I got home.

(Witness excused.)

Mr. Drinker: We offer in evidence these two slips which have been marked Plaintiffs Exhibits 42 and 43.

1951 Plaintiffs Exhibit No. 42.

"C. E. Pattie,
Box 376, Hartford, Ark."

Plaintiffs Exhibit No. 43.

"H. M. Strope, Bx 672
Frank Sharp,
Hartford, Ark."

1952 Cross-Examination

By Mr. Warrum:

Q. Where do you live, Mr. Daugherty?

A. I live at Lakes, West Virginia, now.

Q. Are you working now? A. Now?

Q. I mean,—

A. (interrupting). When I am at home, yes; when I am at home I was working.

Q. In a coal mine? A. Yes, sir.

Q. How did you happen to be in Ft. Smith at this time?

A. Well, I really don't know, hardly.

Q. Did you get a letter inviting you to come?

A. Yes, sir,—no, my father tried to write me to come, they tried to write me to come and they couldn't get no letter no way to me, and my father came after me.

Q. He came from Tennessee?

A. From Tennessee after me.

Q. He lives at Coal Creek, Tennessee?

A. He lives at Briceville, Tennessee.
Q. What kind of a mine are you working in now, union or non-union? A. Non-union.
Q. What kind of a mine did you work in in Tennessee during the 15 or 20 years that you were a coal digger there?
A. Part of the union mine and part of the time it was not.
Q. How long since you have been a union miner?
A. I don't really know, it has been quite a while since I unioned out there.
Q. I believe you stated that you were working as a coal digger generally, before you came to Prairie Creek in July, 1914?
A. Yes, sir. I have been a miner nearly all of my life, since I was old enough to work.
Q. How long had you been working as a non-union
1953 miner before you came here?
A. It was quite a while; I don't remember how long, but quite a while.
Q. You came on the invitation or employment of Ewing Thomas? A. Yes, sir.
Q. He had been down there?
A. He told me he had, yes, sir.
Q. Do you know whether he was there engaged in gathering employes from the non-union mines to bring them here?
A. Do I know?
Q. Yes.
A. No, I really don't know. He just told me he was moving back here, and we got to talking, and a number of us agreed to come with him back down here.
Q. Now in the afternoon, or during the day of the 17th, you say, after you got up on the hillside, you met two men?
A. There were two men came to us.
Q. They came to you? A. Yes, sir.
Q. And one of them went into Hartford with you?
A. Yes, sir, as well as I remember there was one of the men, I would be pretty sure.
Q. And you had some conversation with both of them while you were there, stationed on the mountain?
A. Yes, sir.
Q. And you talked to the other as you went into Hartford?
A. I talked to a lot of them as we went in.
Q. And you talked to a good many after you got to Hartford that evening and the next day?
A. Yes, sir, and until I left Sunday morning.
Q. And they discussed the situation at Prairie Creek with you? A. Yes, sir, that was the general talk.

Q. And told you they were determined to allow no scabs to work there? A. Yes, sir.

Q. During all of that conversation with all of those
1954 men, did you hear anybody say that they were determined that they would not allow a gang to lie out there and insult their girls, and arrest their men on the highway, and shoot up their town, and outrage their community?

A. No, sir.

Q. You heard nothing of that kind?

A. I don't remember that I ever heard that at all.

Mr. Warrum: That is all.

Witness excused.

1955 DR. OSCAR MELVERN NEILL, called as a witness on behalf of the plaintiffs, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Mr. Hull: If the court please, the testimony of this witness is a little out of chronological order, but Dr. Neill is a busy doctor down at Midland, and he is in town today, and I felt we could put him on and let him get away. I wanted to make that explanation to the court.

Q. What is your full name?

A. My initials or the full name?

Q. Your full name? A. Oscar Melvern Neill.

Q. Where do you live? A. Midland.

Q. You are a practicing physician there? A. Yes, sir.

Q. How long have you been in that profession in that community? A. About 14 years.

Q. On or about May 25th, 1914, Dr. Neill, did you hear Pete Stewart make some remarks in front of McGee's drug store in Midland? A. Yes, sir.

Q. Will you state to the jury as near as you can remember what Mr. Stewart said at that time?

A. Well, he and Judge Little came up there in a car, and he was talking, and he made a remark that attracted my attention; he said something like this, "They are armed out there, and they are outraging our women and girls, and if they want to start another Colorado, why, they can do so," or something like that. I don't remember just word for word how he spoke it.

Q. Did he say anything about guns?

A. Yes, sir, he said it was no secret that everybody
1956 went armed, and anybody that wanted arms could get them; I believe, to the best of my recollection.

Q. Did he say anything about that he would see that they got them?

A. Yes, sir, I think that is the way that he put it, or that is the way I understood it, anyway.

Q. Did he say anything about when they could get them?

A. Well, I don't remember whether he said, just stated the date or not. I don't believe he did. I think that was about what he said, that anybody that wanted arms could get them, as well as I remember.

Q. Do you know who Pete Stewart was?

A. Well, I knew, yes, sir. Yes, sir, I knew, they said that he was the president of District 21.

Q. Of what organization?

A. Of the United Mine Workers.

Q. Did you know who Paul Little was at that time?

A. Yes, sir.

Q. What was his profession?

A. Prosecuting attorney of this district, I believe.

Q. About how many people heard those remarks, how many people were there?

A. Well, there were not very many at that time. It was shortly after noon, and there had not so very many got back on the streets.

Q. Can you approximate how many there were?

A. Oh, a half a dozen standing around there, I guess; there possibly might have been more, but I don't remember.

Q. Do you remember any men that were there?

A. Yes, sir. I remember myself, and a Mr. McGee, and Mr. Robinson, and I am not so sure, but I believe the postmaster was standing there.

Q. What was the postmaster's name?

A. Counsel; Blake Counsel. I believe he was standing
1957 out there, but if he says he was not, I would not argue the question; but I believe he was there.

Q. Was Bud Porter there?

A. Yes, sir, I think Bud was there.

Q. Was Mr. York there?

A. Yes, sir, I think possibly that Parson York was out there.

Mr. Hull: That is all.

Cross-Examination

By Mr. Warrum:

Q. Now, Doctor, what time of day did you say it was?

A. In the afternoon, somwhere about 2:00 or 2:30, possibly 3:00 o'clock; I don't remember just when.

Q. Where was it?

A. In front of McGee's drug store.

Q. At what place? A. Midland.

Q. Midland. Was there a general conversation going on?

A. Well, probably there might have been; I was talking to another man when this remark was made that attracted my attention.

Q. The remarks,—could you tell from the remark whether it was made in the course of a conversation between these number of men that you have spoken of that were standing around, or did it seem to be entirely separate, nothing before or after?

A. Well, yes, I rather think there was some talk.

Q. Part of a conversation? A. Yes, sir.

Q. And he said that they had insulted and outraged their women, and if they wanted another Colorado they could have it, ain't that what you say he stated?

A. Something like that, yes, sir.

Q. Did he not state that they did not want another Colorado around there?

A. Now, I didn't understand it that way. He probably did.

1958 Q. He might have said that, might he?

A. Yes, sir, he might have said that.

Q. Is your recollection so definite upon that point that you would want to state just exactly what his reference to another Colorado was?

A. The way I understood it: "If they want to start another Colorado, they can have it."

Q. Now, who else was there, you say?

A. Well, I remember these parties that I spoke of, and possibly there were more there.

Q. Who was Mr. York?

A. Well, he was a coal digger there.

Q. What business was he in?

A. None whatever. He is a local preacher around there, preaches around.

Q. A local minister?

A. No, he is a preacher, he preaches around there.

Q. I mean by a minister a preacher of the gospel?

A. Yes, sir.

Q. Who was another one of the men there?

A. A. W. McGee.

Q. What busienss was he in?

A. He was at that time in the drug store.
Q. He was a druggist there? A. Yes, sir.
Q. And another man was Paul Little?
A. He came in a car with this man they said was Pete Stewart.
Q. He was there at the time of this conversation that you speak of?
A. No. Now if I remember correctly, when the car came up and Paul got out of it, he got on the sidewalk, and somebody and him walked off up the street, about to the old woman's place of business.
Q. Did you say a moment ago on direct examination that Paul Little was in this crowd at the time of Pete Stewart's remarks? A. He came in the car.
1959 Q. That Paul Little, is that the present Circuit Judge of this county? A. Yes, sir.
Q. Prosecuting attorney then, was he not?
A. At that time he was.
Q. Now, there was a good deal of excitement around in that community about the insults to girls, by these armed guards, was there not? A. Yes, sir.
Q. A good deal of talk about it? A. Yes, sir.
Q. Other people besides Mr. Stewart were talking about it? A. Everybody in the neighborhood.
Q. Was there any talk at that time about Riley Bailey having insulted one of the young girls in that neighborhood, and having been arrested and fined for it?
A. Yes, sir, I think I heard some talk about it.
Q. Was not Mr. Pete Stewart discussing that particular incident?
A. He probably was; I cant say that he was.
Q. Was there not other instances discussed there at that time? A. Probably there was.
Q. About insults to school girls that went to the Prairie Creek school, by these armed guards?
A. Probably there was.
Q. What was the discussion,—that was being discussed in that neighborhood, was it not?
A. Oh, yes; yes.
Q. Now, was it with reference to the remarks that Mr. Stewart made, with reference to guns, was it not this, that if they had to have portection, if they needed protection and had to have a gun, that they could get them, the people in the community? A. Probably it was.
Q. Is that your recollection?
A. Just as I stated it a while ago.

Q. Well, did other people talk in this assemblage,
1960 anybody else make any remarks, Doctor, besides Pete Stewart?
A. I dont remember it that way.
Q. You mean that that is the only one?
A. Pete had the floor.
Q. Pete had the floor? A. Yes, sir.
Q. And that is the only statement that you recollect; if anybody else stated anything, you dont recollect it, is that it?
A. I was listening to him, there might have been some others talking around there, but I was listening to what he said.

Witness Excused.

1961 MRS. MAHALA BARNES, called as a witness on behalf of the plaintiffs, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Hull:
Q. What is your name, Mrs. Barnes?
A. Given name?
Q. Yes. A. Mahala Barnes.
Q. Where do you live? A. I live at Braden, Oklahoma, now.
Q. Where did you live in 1914?
A. I lived at,—let's see, we lived at,—
Q. (interrupting). Can you talk a little louder? She has not a strong voice, we will have to do the best we can with her. Let's all keep quiet. Now, talk loudly. Where did you live in 1914? A. Let me see, in 1914?
Q. Yes, we will say in April, 1914, where were you?
A. Why I was there at No. 4 Prairie Creek, in April, 1914.
Q. Now, do you remember the day that they had the riot there at No. 4? A. Yes, sir.
Q. Where were you living that day?
A. The day they had the first one I was living right back of the mine, in the bunk house.
Q. Who was living there with you?
A. Levi Brown and his wife.
Q. And your husband? A. Yes, sir.
Q. Now, was Levi Brown sick that day?
A. Yes, sir.
Q. When was he taken sick?

A. He [—] taken sick on Sunday night.
Q. That was the day before the riot?
A. Yes, sir.
Q. Was he in bed on Monday?
A. Yes, sir, he was in bed all Sunday night and Monday.

1962 Q. Now, state what occurred, if anything, at the bank house on the afternoon of that Monday?

A. On the afternoon of that Monday they came in there and ordered us to leave and wanted us to give back and let them through, and they were going to drag him out and whip him.

Q. Drag who out?

A. Levi Brown; and they said he jumped into bed just to keep them from getting him, but we kept them out.

Q. Who? A. Mrs. Brown and me.
Q. What did you do to keep them out?
A. We talked to them, and kept them back.
Q. What did you have? A. I had a butcher knife.
Q. Did Mrs. Brown have a butcher knife, too?
A. Yes, sir.
Q. Did you keep them from going in there?
A. Yes, sir, we kept them back.

Q. And what was the crowd saying and doing all that time?

A. They were calling us scabs and everything they could lay their tongue to.

Mr. Hull: I believe that is all.

Mr. Warrum: No cross-examination.

Witness Excused.

1963 C. H. LANGFORD, called as a witness in behalf of the plaintiffs, being first duly sworn, testified as follows:

Direct Examination

By Mr. McDonough:
Q. What are your initials? A. C. H.
Q. You are known as Cooper Langford? A. Yes, sir.
Q. Where do you live now?
A. Clarksville, Arkansas.
Q. What business are you engaged in?
A. Mercantile business.
Q. Where did you live in 1914? A. At Clarksville.

Q. Were you employed as superintendent at Mine No. 4 of the Bache-Denman Company? A. I was.

Q. When were you employed as superintendent?

A. About two months, or a few days over two months, before the fight occurred on the 17th of July, I believe. I worked for them about two months, and a few days over.

Q. As Superintendent?

A. The first few days I was down there I was not employed as superintendent. Mr. Cameron was there when I took charge, and he went out a short time after I went there, and I succeeded him.

Q. How many men did you have under you there as superintendent, about how many?

A. Well, they run from 50 to 100. I dont think that we ever had more than 100 there at any one time.

Q. Did you stay out there during that two months' time, or a part of it?

A. Most of the time I stayed on the ground.

Q. Did you employ and take out there, during that time, any men? A. I did.

Q. About how many?

A. Well, I expect something like 100 men. They
1964 would come and go, they would not all stay, you know, there would some of them drift away and leave.

Q. In taking these men out, during that period, state whether or not there was at any time any trouble in taking them out?

A. We frequently had trouble in taking them out. The first day I went to the mine we had considerable trouble on the train. The first day I ever went out there.

Q. State what it was?

A. We went out there over the Midland Valley Road, and I had, I think, seven men with me, seven or eight men, and there was quite a bunch of union miners on the train; there was only one of them that I knew, one that had worked in the Spadra field, and he knew the boys that were with me then, they were Johnson County boys, all of them; and he started a row and then went into the other car, or into the other end of the same car, and brought these other men in with him, and they had considerable of a row on the train that evening.

Q. Give his name, if you know it?

A. I dont know his name, except Stanfield, and we called him Cub Stanfield.

Q. State what was said and done, as near as you can?

A. He started it by abusing the boys about going down there to scab at No. 4. He called them scabs, and they got

into a wrangle over it. He and a fellow by the name of Tipron got into considerable of a wrangle. Tipton was one of the boys with me. Cub Stanfield started the trouble with him first.

Q. To what extent did they have a row, did they come to blows?

A. No blows at all, just a cussing match and general wrangling.

Q. Did the union men get off at the same place that you got off?

A. No, they got off this side, that bunch, most of them.

Q. What station did you get off the train?

1965 A. We got off at Prairie Creek.

Q. How far was the station then from Mine No. 4?

A. It is, I would judge, between a quarter and a half mile possibly a half a mile.

Q. Was it Tipton that had the trouble?

A. Tipton that had the trouble with Stanfield. That is, Stanfield abused Tipton for going down there to work. Mr. Johnson took some part in it, the marshal was on the train at the same time, the deputy United States marshal here at that time was in the car with us.

Q. Is that Bert Johnson, known here as Bert Johnson?

A. I am not positive about that; he was deputy United States marshal, under the former marshal.

Q. Deputy marshal under Marshal Mays?

A. Yes, sir, under Mays.

Q. Do you know, Mr. Langford, whether Tipton used any language or said anything there to some ladies that were talking to him?

A. I know that he spoke to a girl, and I stopped him, and told him to keep his mouth shut. That was after we got off of the train at No. 4, at Prairie Creek. When we got off there were some 75 or 100, a regular mob there, and the first thing when we swung off of the car, the back of the car, down the track to take the road to the mine, the first thing that attracted my attention was a rock flew past my head, and struck on the track right in front of me, and Tipton started to run, and I said, "Hold on, there, Hack." I think there were seven of us together, and I stopped and looked back, and really,—I had a gun in my pocket at that time, going out there,—and then we started on down the track, and there was a girl that looked to be about 12 years

1966 old, that looked like she was crazy, and she was standing there hollering and there was a bunch of women

hollering and calling us scabs, and this girl, as well as I remember, just pointed to the camp, we didn't know where the camp was, I didnt know where the camp was, but possibly some of the others did, and she said, "There is the scab pen over there", and Tipton said, "Yah-Yah." That was all that was said, he said nothing to the girl, but she was hysterical, hollering, and this man Bailey, that they arrested a few days after that, and carried him over to Midland,—but he afterwards beat the case,—this man Bailey was not within a quarter of a mile of the girl that he was supposed to have insulted, but the man that really spoke to the girl,—

Mr. Neal: I dont think that the testimony in that case would be competent.

The Court: Possibly that part of it.

A. (continuing.) Tipton is the man that spoke to the girl, and he didnt say anything out of the way to the girl at all, he just said, "Yah Yah"; and I said, "Shut your mouth".

Q. Did Bailey say anything to the girl at all?

A. He was not in a quarter of a mile of her.

Q. Do you know who threw the rock, whether it came from your party or somebody else?

A. It came from their party, it came from back of me, I was the last man back, except one, and there was only one man in back of me.

Q. How large a rock was it?

A. Oh, it was a large rock, as big as your fist and it passed within a foot or two of my head.

Q. Had you any warning that the rock was coming along?

A. None whatever.

Q. You dont know who threw it? A. I do not.

1967 Q. The conversation, or remarks made by Tipton to the girl was the offense,—that was the offense for which Bailey was afterwards arrested?

Mr. Warrum: Now, if the court please,—

The Court (interrupting): I think I will admit this on the theory that there was a frame up against these men. Now, if there was a frame up it was material, and is part of this conspiracy. It is just as much of an offense as part of this offense, if there was a frame up.

Mr. Warrum: We will welcome them on that issue, but if the court please, they are asking this man to determine whether or not one case, one instance that he testifies to,

was in fact the subject upon which a man was tried at a different place, and without showing that he attended the trial or was a witness or anything else.

The witness: That is just exactly what happened.

The Court: He can determine whether he was arrested and fined.

Mr. Warrum: They are asking for a conclusion.

The Court: It is competent to show that this man was not there at the time.

Mr. Warrum: We don't want to be concluded by his opinion.

The Witness: No opinion about it, I am positive that was the case.

The Court: This is their case, this is not yours, of course.

Mr. Warrum: No.

The Court: I am assuming that this along the line that they have outlined.

1968 Mr. Warrum: But I didn't think that it was anything that he knew.

The Witness: I know positively that that is the case that they had reference to.

The Court: I think I will admit it.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Q. I want to ask you about June 15th, whether or not on or about that date you had other trouble at Prairie Creek crossing?

A. About that date, somewhere, we had, but I cannot say positively whether it was June 15th.

Q. How many men were going out from Ft. Smith on that day, if you know?

A. There were some five or six on the train at that time, and when the train was stopped,—we had that train stopped before we reached the station, in order to get the men off before sending them to the station, where these people generally congregated. The union miners generally congregated around the station, and we had this train stopped right opposite the mine, within 100 or 200 yards of the mine, and there was a bunch of union miners that refused to let them

get off. They tried to keep them from getting off. They lots of times run our men right on through to Hartford, and would intimidate them and refuse to let them get off, and that day I went in the train myself, and took two or three of those boys off. There were two or three of those boys from Mena, I had never seen them before.

Q. Do you remember their names?

A. I would if I heard it.

Q. Parrish?

A. The Parrish boys, two of them, brothers.

Q. Was there anybody struck there at that time?

1969 A. One of the Parrish boys was struck in the back of the head as he got off of the train.

Q. By whom? A. Sandy Robinson.

Q. Was he one of the union miners?

A. Sandy was a union miner. The constable was there at that time, and I tried to get him to come on the train and help get those boys off, and save trouble, and he came as far as the step. That was Fitzgerald, that was constable at that time; and he came as far as the step but never went in the car, and I went in and took those boys off.

Q. State whether or not you recognized any other union men in the crowd at that time?

A. Clint Burris was there, and I am not sure whether Slankard was on the train that day or not, but he frequently was, I saw him on the train a number of times.

Q. I wish you would give, as near as you can, the conversation had by these union men, and what they said to your men that you would bring there?

A. Well, there was nothing only simply cursing and abusing the men, and calling them scabs, and trying to keep them from going to that place.

Q. Were you taking them there to work at the mine?

A. I did, I took them there to try to operate the mines.

Q. Was there a man there by the name of Shell?

A. There was.

Q. What did he do, if anything?

A. Shell was a deputy United States marshal.

Q. What was his business there?

A. Nothing, only to guard the property. The court here kept a couple of marshals down there for quite a while.

Q. Now that was about June 15th, you say, is that as

1970 near as you can fix the date?

A. That is as near as I know; I don't remember the exact dates, but I remember the incident.

Q. Did you have any other trouble about that time?

A. Well, we had trouble frequently while I was there. Every time one of our boys would get out from the camp a little ways or try to go home down to Ft. Smith, they were frequently beat up. One night some of the boys started home, and there was an old man in it, and they beat him up, an old blacksmith that I had there, and he was in the hospital for a week. I had to have a doctor there with him for quite a while.

Q. What was his name?

A. I don't remember his name, he was a blacksmith, and the doctor there at Midland treated him. He was a man about 65 years old. He was a fine blacksmith, and I brought him from down there. He had only been there a short time, and he was from the east there.

Q. Were you there at the time that a man by the name of Berkell was brought to the camp? A. I was.

Q. I wish you would state the facts with reference to that?

A. Well, for several nights they had been cutting the wires. We got our power from the electric light plant at Huntington. That power was furnished our lights over there, and run the pumps, and there was a post out on the main road that the wires come off of their main wire, and run over to the mine, and they would go and cut those wires, and that would throw us in the dark. We had electric lights around to watch the property at night, and when they cut those wires we were in the dark, and that would also stop the pumps. This man Shell was supposed to be guarding that post, he was there to look after the property, and that night he didn't go out, but Harry Dunlap and Charlie Cheek went out to the post. I think it was about ten o'clock, but
1971 before they went out there was a big explosion of dynamite, and whenever we heard those explosions we always knew that there was something going to happen. They would shoot into the camp or cut the wires or something, and I went in and told Cheek and Dunlap to go out to the post and keep them from cutting the wires. The post was about a quarter of a mile up the main road, and then I went to bed, or laid down; and I hadn't been laying down very long, until shots were fired into the camp and I heard one of the guards fire a shot, Mr. Hamilton, on the post close to the tent, he fired a shot.

Q. Was that shot fired before or after the other shot?

A. That was fired afterwards.

Q. How many of the other shots were fired?

A. I don't think over two or three; and then I heard this shot fired, and I knew from the location that it was Hamilton

on his post, and I jumped up and put on my pants and run up to Hamilton's post, and when I got there, I spoke to him, I said; "Mr. Hamilton, be careful about shooting out that way, some of our boys are out that way", and he said, "I know where they are, I am shooting at this pile of cross ties." About 75 yards over there was a pile of cross ties and he says, "There is a fellow behind there shooting into the camp", and he said, "I am shooting at the flash of his gun." There were no more shots fired, but a few minutes after that I saw Cheek and Dunlap coming in the light, and they had a man in front of them. They came up to the gate, we haven't any fence. no stockade, but we have a wire stretched around there and we had a gate there, and I walked out to the gate, and met them, and I hollered at them, I said, "You got one of the sons-of-bitches, did you, boys?" And this man Berkell, said, "My God, man, don't talk that
1972 way", and I walked up to him and put my hand on his shoulder and said, "Don't be uneasy, there is not a man in here that will harm a hair on your head". I led him up and turned him over to old man Chitwood, he was there, he was a deputy marshal, and he took him and stayed there and talked to him until twelve or one o'clock, I don't know what time it was, and the next day the old man told me that Berkell tried to get him to let him go into the shaft.

Q. Chitwood told you that? A. Yes, sir.

Q. I won't ask that. At that time the property was in the hands of a receiver? A. Yes, sir.

Q. These deputy marshals were there for the purpose of protecting the property?

A. They were there for the purpose of protecting the property, yes, sir, because the court had taken it over.

Q. And what became of Mr. Berkell?

A. The next day he got in the car and come with us up here. He was not under arrest, we held him there that night, that is, Mr. Chitwood did, I would have held him if he had not, and the next day Mr. Holt told him they wanted him in Ft. Smith, and Buster Moore, he said we are going into Ft. Smith, and we told him that he could go with us into Ft. Smith, that he would understand that he was not under arrest, but if he wanted to go with us that he could, and he got in and we brought him in and let him out here by the court house.

Q. At that time the contempt proceeding was going on?

A. Yes, sir, at that time.

Q. And that matter was reported to the court?

A. It was.

Q. Mr. Langford, during the entire time that you were
1973 there, state whether or not any of the employes under you, or any employe of the company, or of the receiver, went out and shot up Frogtown, or any other union camp there?

A. They did not to my knowledge, and they could not have gone without my knowing something about it, because I had enough men watching to see that they didn't get out. No, sir. Once in a while a man did get out, they brought a little blind tiger whiskey; there were 75 to 100 men there, and those boys would come there and sell the men around the lines whiskey, and I know one time I discharged one of the men because he was drinking in the camp. He had gotten whiskey from bootleggers around the camp.

Q. Referring again to Mr. Berkell, state what was the purpose in bringing him to Fort Smith, or in permitting him to come with you?

A. We were trying to get at facts with reference to cutting the wires, and why he was with that crowd that night. His coming with us was just a matter of accommodation to him, because he was ordered to come into Ft. Smith.

Q. He had been ordered by the marshal to come to Ft. Smith? A. Yes, sir.

Q. To testify in the contempt proceedings?

A. I don't know, but Holt told him he had orders for him to come to Ft. Smith.

Q. Holt was a deputy marshal?

A. Yes, sir, at that time.

Q. And he notified him that he had orders, or told him to come to Ft. Smith? A. Yes, sir.

Q. Now, was there any other trouble over there than what you have given accounts of?

A. Well, there was trouble all the time, every few nights they were shooting into the camp.

1974 Q. Mr. Langford,—

A. (interrupting). The entire time that I was down there, and frequently in the day time, there were a number of shots fired into the camp in the day time, one shot hit a coal car eight or ten feet away from me; one time I was standing there and a shot came from across the field, over the ridge, and hit a coal car.

Q. Could you see the person that fired the shot?

A. I could not, he was in the woods, on the side of the hill.

Q. Were you there at the time of the battle on July 17th?

A. I was not.

Q. When did you leave No. 4?

A. The night before the fight.

Q. What was your purpose in leaving?

A. I had a stockholders meeting in a coal company at Clarksville on the 17th, the Scranton Anthracite Coal Company, that I was president of, and I had to leave to attend that meeting, and I came to Ft. Smith and got a car and went down home, and the next day I heard of the fight, and I got in a car and came back.

Q. Mr. Langford, did you know about the change in the marshalship about the 15th of July, in the Western District of Arkansas, when Mr. Mays went out and Mr. Parker came in as United States Marshal? A. I did.

Q. State whether or not the marshal, Mr. Holt, and the other two that were there, were called in about that time?

A. I am not positive whether they were called in, but I believe they were called to Ft. Smith, but they came back and worked a while after that.

Q. Was the fact,—state whether or not the fact of them being called in, and there being a change in the marshalship, was made known to the public press, in the newspa-

1975 pers circulating in that community? A. It was.

Q. Was there any deputy marshals there on the night that you left, or had they come in? That is on the night of the 16th?

A. I couldn't say positively whether they were there that night or not, I don't believe they were. Yes, Shell was there that night. He was there the next day.

Q. State whether or not the papers had not announced that the marshals would be called in because of the change in the marshalship? A. I am not positive about that.

Mr. Neal: I don't think it is competent to show what the papers stated.

The Court: Make your objection properly.

Mr. Neal: We object to that question and answer, because of the fact that we don't think it is competent to show what the newspapers said about it.

The Court: It clearly is not competent. The objection will be sustained.

To which ruling of the court the Plaintiffs, and each of them, then and there duly excepted and still except.

Mr. McDonough: That is all.

Cross-Examination.

By Mr. Warrum:

Q. Mr. Langford, you have been for a great many years an employer of labor in and about coal mines?

A. About 15 years I would judge.

Q. You never employed any union men in your life, have you? A. Lots of them.

Q. Are you now engaged in coal mining? A. I am.

Q. What company is it?

A. They call it the Collier-Dunlap Company, near Hartman in Johnson County.

1976 Q. Is that a union mine? A. It is.

Q. Were you engaged in operating a mine with union labor before you took this superintendency at Prairie Creek?

A. I was not operating any plant at that time, actively engaged, but I was interested in other plants.

Q. How long before that had you been conducting a mine, employing labor of any kind?

A. I had an interest in an open shop mine at that time, was working open shop in Johnson County.

Q. What county? A. Johnson County.

Q. What mine?

A. The Pennsylvania Mining Company.

Q. And during the time that you were superintendent there, the two weeks you were there, you took over 100 men out to Prairie Creek?

A. I was superintendent there over two months.

Q. And during that two months you took something like 100 men out to Prairie Creek?

A. In that neighborhood, yes, sir.

Q. Any of them union men?

A. Why, half of them had belonged to a union at one time or another. They were just coal diggers. I didn't ask them whether they were union or not.

Q. The seven or eight men that you had on the Midland Valley Railroad at the time of the incident you spoke of, that is the riot with Tipton and Stanfield, were they union men at that time? A. They were not at that time.

Q. They were non-union men? A. Yes, sir.

Q. You mentioned a man named Stanfield, that had a row with Tipton? A. Yes, sir.

Q. You spoke of the men with him being union men, did you know them?

A. I didn't know the men with Stanfield. They lived
1977 down here near Bonanza, but they were all union men, working at that mine.

Q. Did you know them personally, and that they lived there at Bonanza? A. They got off there.
Q. They got off there, but did you know them at all?
A. No, sir, I did not.
Q. Now, Stanfield and Tipton had a row on that occasion?
A. They did.
Q. Anybody else join in the row?
A. Nearly everybody in the car had a few words to say about it before it was over.
Q. You had something to say yourself?
A. I think so, that is my recollection.
Q. Did you call anybody a son-of-a-bitch?
A. I don't remember using such language as that on that occasion.
Q. But you did speak of A. N. Berkell as a son-of-a-bitch?
A. I did, but I didn't know him from anybody else, I used that language when he came in.
Q. Did Tipton use any such language when he was having this row with Stanfield?
A. I don't think so, they just got in a general wrangle.
Q. And the only ones that used that were union men?
A. No, I don't mean to say that. It was just a general row there; they were somewhat excited.
Q. Was Tipton excited? A. I don't know.
Q. Do you recollect whether Tipton swore? A. I do not.
Q. Do you recollect whether Stanfield swore?
A. Stanfield was the man that started the row, and called him a son-of-a-bitch.
1978 Q. That is not my question.
A. What was the question?

Mr. Warrum: Will the stenographer please read the question?

(Question read by official stenographer as follows: "Do you remember whether Stanfield swore?")

A. I do.
Q. Do you remember whether Tipton used any profane language?
A. I would not be positive whether he did or not.
Q. Now, when you got off the train at Prairie Creek a stone was thrown, you said? A. Yes, sir.
Q. Did it come near your head or your person?
A. Within a foot or two of my head.
Q. And passed you and fell down on the railroad?
A. On the track, probably ten or fifteen feet ahead of me.

Q. And you made a motion, when you were testifying, to your hip pocket? Did you draw a gun on that occasion?
A. I did not.
Q. What was that motion to indicate?
A. To hold those fellows off of us.
Q. Then you made a motion then on that occasion, toward the crowd to hold them off? A. Yes, sir.
Q. Did you have a gun with you? A. I did.
Q. The rest of them have guns?
A. Not that I know, I never saw anyone with a gun, I don't think they did.
Q. Do you remember what the girl said on that occasion to Tipton?
A. No, the only thing I heard, she was just a hollering and calling us scabs, and telling us where the pen was over there.
Q. And nobody responded to her except Tipton?
A. Yes, sir.
1979 Q. And he said, "Yah Yah"?
A. And I told him to shut his mouth.
Q. You don't know that Tipton called her a freckled bitch?
A. I know he did not, positively.
Q. You have heard the expression before? Did you ever hear of Tipton being charged with it?
A. I never heard of Tipton being charged with it at all.
Q. Did you attend the trial of the Bailey case?
A. No, sir.
Q. Did you ever see the affidavit filed in that case?
A. No, sir.
Q. Did you ever read the evidence, or a transcript of the evidence in that case? A. No, sir.
Q. Someone told you that was the same case, is that the idea?
A. I sent three or four witnesses over there to prove where Tipton was at that time that this thing occurred, to prove that Tipton was not out there where the girl was. I knew the girl, I afterwards learned who she was, and I sent these witnesses over there.
1980 Q. Who was the prosecuting witness in the Bailey case?
A. I don't know, it was a fellow there at No. 4 Prairie Creek.
Q. Who was the girl, you said you knew?
A. I think her name was Johnson, I am not sure.
Q. Do you remember the first name? A. No, I do not.
Q. Johnson,—was that the same girl?
A. That is my recollection.

Q. Was that the same girl that you were informed, or knew that was there at the time that you got off of the train at Prairie Creek, that Tipton had a little altercation with?

A. That was the girl that met us on the road, and Tipton made the remark to, and a few days after that they had Bailey arrested for the [occurrecne].

Q. Don't you know that Bailey was arrested for insulting a girl on the public highway?

A. I didn't go there to the trial at all, but that was the charge they told me that he had to go to attend the Court for.

Q. Now, who was it you discharged for getting some blind tiger whiskey?

A. I can't recall his name, it was a fellow that had only been there three or four days.

Q. About what time did you discharge him, about what time in the month?

A. I don't know what time in the month.

Q. It was after Frogtown was shot up?

A. It never was shot up that I knew of.

Q. Did you not discharge this guard—

A. (Interrupting.) It was not a guard that I discharged.

Q. Did you discharge a guard at anytime because he
1981 was protesting against shooting up of Frogtown?

A. I did not.

Q. Now, when Berkell was brought in by Mr. Cheek, and the guard that was with him, Dunlap, did Berkell tell you where he had been?

A. Yes, sir, he told the crowd where he had been.

Q. He told you he had been so see his sweetheart that evening? A. I don't remember it that way.

Q. Did he tell you where he was going?

A. He said he was going around by No. 4 Prairie Creek to get a bottle of beer.

Q. Did he not tell you that he had been to see his sweetheart and was going down to his mother's?

A. He was going in the opposite direction from where he said he lived.

Q. He didn't tell you that he was going to stay with his mother, who was alone?

A. I think he told us he was going to his mother's.

Q. And he wanted a chance to telephone? A. He did.

Q. And did he get to telephone to his mother?

A. He did not.

Q. Why did you not let him telephone?

A. There was no telephone convenient, the wires had been cut on the telephone.

Q. There was no telephone in use?

A. There was not at that time.

Q. Now you took him down,—where did you take him, what building?

A. There was no building, it was in front of a tent. We had tents that the [marshalls] could use, and we were using those tents.

Q. Did he insist on his right to go home, that his
1982 mother would be worried?

A. He insisted on going home.

Q. The guards that brought him in had guns on them, did they not? A. Yes, sir.

Q. And he was brought in from the public highway where he was stopped?

A. Near the public highway, he had gone off of the public highway. There was a little dog down there that was making a big fuss, and the dog had kept growling, and Berkell and some of the boys went down to see what the noise was, and—

Q. (Interrupting.) Did you see this, or was this told to you? A. This was told to me.

Q. Now, Mr. Berkell insisted on the right to go home, and you insisted on him staying there.

Q. I turned him over to the [marshall], Mr. Chitwood.

Q. Did the [marshall] have any subpoena for him?

A. Not that I know of, he could not have had one.

Q. Did he have any notice from the court?

A. I think not, he couldn't have had one.

Q. When did he get the notice?

A. I think he got the notice the next morning sometime.

Q. He got the notice the next morning? A. I think so.

Q. Telephone in to him?

A. I think so, yes, it was telephoned him.

Q. That wire was not cut?

A. No, it was not cut at that time.

Q. Now, you speak of the property at that time being in the hands of the receiver. Do you know when the receiver was appointed in this case? A. How is that?

Q. Do you know when the receiver was appointed for the Bache-Denman mines?

A. No, I don't know the exact date.

1983 Q. Don't you know it was after you left down there?

A. No, it was before.

Q. That it was on the 25th of July?

A. The court had as many as 40 men down there at one time.

Q. That is not the question I asked. Don't you know that the receiver was appointed on the 25th of July, after you left there? A. I do not, I don't know the date.

Mr. Warrum: That is all.

Redirect Examination

By Mr. McDonough:

Q. Now, Mr. Langford, there was an injunction proceeding, was there, or was there not?

A. It was an injunction, instead of the receivership to start on. That is where I mixed on that, they had the marshals there on account of the injunction.

Q. On your cross-examination you referred to sending three or four witnesses over to the trial to show that Tipton was not there. Did you mean Mr. Tipton, when you said Tipton?

A. I meant Bailey, to show that Bailey was not there.

Mr. McDonough: That is all.

(Witness excused.)

The Court: At this point we will adjourn until tomorrow, Thursday, November 1, 1917, at 9:30 o'clock A. M.

1984 Fort Smith, Arkansas,

Thursday, November 1, 1917. 9:30 A. M.

Pursuant to adjournment as last aforesaid came all of the parties on Thursday, November 1, 1917, at 9:30 o'clock A. M. and the trial of the case proceeded as follows:

Mr. McDonough: If the Court please, we want a subpoena duces tecum and my understanding is it can only be issued by order of Court.

The Court: That is the rule in some jurisdictions and if that is the practice here the order may be entered.

Mr. Drinker: If the Court please, we present the deposition of William Thomas taken in Clinton, Tennessee, at the same time the deposition of Ewing Thomas was taken, the same counsel being present. (Reading.)

"WILLIAM THOMAS, being duly sworn deposed as follows:—

Examination by Mr. Drinker.

Q. Are you the son of Ewing Thomas? A. Yes, sir.

Q. Sister of Mrs. Perry? A. My half sister.

Q. Where did you live in the spring of 1914?

A. Briceville.

Q. And when did you first hear about going to Prairie Creek? A. Along in June somewhere.
Q. What now did you first hear? A. Mr. Eustis—
Q. What did he do?
A. He got my father to go over there.
Q. When did your father go out there?
A. About the first of June, the best I remember.
Q. Come back again? A. Yes, sir.
Q. When? A. About the first of July.
1985 Q. Take anybody back with him?
A. Yes, took William Saunders and Andrew Dougherty and Mr. Dougherty, don't know what his name is, Ida Saunders—
Q. Saunders wife?
A. Yes, sir, and Tom Perry and his wife and children.
Q. Who is Tom Perry's children?
A. My father's daughter.
Q. Your sister? A. Yes, sir.
Q. When did you go to Prairie Creek?
A. We went out there about the 10th of July.
Q. When did you get there?
A. I can't remember what time.
Q. You said your father came back about the first of July, when did he go?
A. Started back about the tenth of July.
Q. How long did it take you to get there?
A. Three days and nights.
Q. When you got there where did you go to live?
A. In No. 3 camp.
Q. What did you do?
A. Worked in a boarding house waiting on a table.
Q. You work anywhere else? A. No, sir.
Q. How late did you work on the night before the trouble?
A. Until about twelve o'clock.
Q. Then where did you sleep?
A. In the cook room.
Q. What time did you wake up next morning?
A. About six o'clock.
Q What did you do when you got up?
A Began to fix the table.
Q. What time did you have breakfast?
A. About 6:30.
1986 Q. Hear anything special around that time, and if so when?
A. About 6:30 Charles Suttles come and told me.
Q. Come from where? A. From on guard duty.
Q. What did you hear?

A. Telling us about having a battlee that night and shooting through the bib of his over-alls.
Q. Show you his over-alls? A. Yes, sir.
Q. What did he say cause that?
A. Shot went through it.
Q. Then what did you do then? Then where did you go after that?
A. Stayed there in the room until breakfast.
Q. Who was there for breakfast?
A. I don't know, several.
Q. Men that worked around the mines? A. Yes, sir.
Q. Where you go after that? A. To the store.
Q. Where did you go? A. Store.
Q. Hear anything there? A. few men working.
Q. Who else see there?
A. I—didn't many come along.
Q. Hear any shooting?
A. No, sir, just talking about being a few shots that night.
Q. Where did you go next and what did you hear?
A. Heard some shots about half an hour from that?
Q. What time? A. About seven o'clock.
Q. Where was that? A. All around.
Q. From inside? A. Outside.
Q. Could you tell where the bullets were coming from?
A. Coming from all directions.
Q. You see any of the strike?
A. See dirt come up, come up from the bullets where they hit.
Q. Strike near where you were?
A. All around me.
Q. Who else saw that at that time?
1987 A. Several of the fellows around the store there.
Q. Where did you go then? A. Started home.
Q. Who was with you the time you started home?
A. My sister and John Martin.
Q. Where did you go then?
A. They went up the hollow and I went the road.
Q. Hear any shooting as you went up the road?
A. Yes, sir.
Q. Who were shooting? A. Union men.
Q. Where were they?
A. On the outside, over in Frog town and all around.
Q. Could you see men outside?
A. I seed four or five, looked like a bunch.
Q. Where were they? A. North of the mines.
Q. See anybody with guns? A. Yes, sir.
Q. See any smoke from guns? A. Yes, sir.

Q. Where was that? A. Where they was shooting.
Q. There around the mines, company men shooting?
A. No, sir, not them.
Q. You see any of these men shoot?
A. Not until I showed a man the crowd.
Q. When did that happen?
A. I was coming up the road and a woman hollowed to go back and get her husband and I started back and I seed some fellows coming, and I didn't know if it was her husband or not, I said yonder he comes now and went on, I stopped to look awhile and seed that crowd of men over there.
Q. Over where? A. North of the mines.
Q. Inside of the company's property?
A. Yes, and I showed it to one of thee guards.
Q. What guard? A. I don't know his name.
1988 Q. Where coming from? A. No. 3 camp.
Q. What did he do when you showed him these men?
A. Begun shooting.
Q. What was he shooting with?
A. Long range gun that he had in his hand.
Q. Then where did you go? A. To the house.
Q. What did the men do when he begun shooting?
A. Got back across the fence, on back yon way.
Q. Did they have guns? A. Yes, sir.
Q. You see them shoot back? A. Yes, shot back.
Q. Then where did you go? A. Into the house.
Q. Who did you find there?
A. My father and Mr. Johnson and my mother.
Q. Who else?
A. If I am not mistaken Mr. Dougherty was there.
Q. Your sister there?
A. No, sir, not got there yet.
Q. When did she get there?
A. In about five minutes.
Q. What did you do then? A. Took to the ridge.
Q. Who took you to the ridge? A. My father.
Q. Your mother go along? A. Yes, sir.
Q. She walk? A. No, sir, packed her.
Q. Who carried her? A. My father.
Q. What was the matter with her, you know?
A. I don't know.
Q. Sick before that?
A. Yes, sir, weakly. Sick.
Q. Where was she when you came back to the house?
A. Laying down on the floor.

Q. On her back? A. On her face.
Q. What was she doing? A. Crying.
Q. Then you say you went—where did you go from there with your father? A. Up on the ridge.
Q. Where did you go from there?
A. In under a bluff.
1989 Q. How long did you stay there?
A. We stayed until eleven o'clock.
Q. Then did you hear anything while you were up there?
A. Yes, plenty of shots.
Q. Anything else?
A. Yes, like a [gymamite] going off.
Q. What time was that? A. 11:30 or 12 o' clock.
Q. That after you left the bluff?
A. No, sir, while we was there.
Q. How long did you stay there?
A. Until about one [O8clock].
Q. You know absolutely what time it was?
A. No, sir.
Q. Look at a watch? A. No, sir.
Q. Guessing at it? A. Yes, sir.
Q. The dynamite went off one hour or two hours before you left there? A. Yes, sir.
Q. How did you come to leave?
A. Men come there and told us, told us to go with them and they would take us out.
Q. Anything else said when they got there?
A. Asked us what we were doing there and how we come there, how long we had been there and what we done with our guns, said they would like to find them, asked where we put them and that's all I can think of, said to go with them, they would take us out.
Q. Did you go with them? A. Yes, sir.
Q. Where did you go? A. Hartford.
Q. Which way did you go when you first started?
A. Top of the hill, right out the point.
Q. See anybody as you went along?
A. Not until we got out of the woods, near to No. 3 tipple.
Q. What did you see then?
A. Men laying around the bank.
1990 Q. What were doing? A. Laying there.
Q. Have anything with them? A. Guns.
Q. Have any marks on them? A. No, sir.
Q. Anything peculiar about them? A. No, sir.
Q. Have anything tied around their arms?
A. Yes, white hankerchiefs tied around their left arms.

Q. What were they doing with the guns?
A. Some of them were shooting.
Q. What were the rest doing? A. Laying there.
Q. See any other people going around?
A. Yes, running all around, some going in a run.
Q. You hear them talking? A. No, sir.
Q. Hear anybody talk to them? A. No, sir.
Q. Anybody come along with mules?
A. Yes, a fellow come up with a mule had a sack and he gave some ammunition and asked others if they had plenty.
Q. You see any ammunition?
A. I seen something I supposed to be ammunition.
Q. How close were you to them?
A. Talking distance to him.
Q. And were you gone when they came down the bank?
A. No, sir, shooting and I kept behind the bank until they quit.
Q. How long? A. Half an hour I suppose.
Q. Then where did you go? A. To a spring.
Q. Which direction were they shooting?
A. In toward the camps.
Q. Said you went by No. 3 tipple, what condition was that in? A. Burning.
Q. Burning hard?
A. Falling in and the grass around catched afire and
1991 we had to go around it.
Q. Go by that? A. Yes, sir.
Q. What did you come to next?
A. Went to the spring from there.
Q. See any body at all? A. I met them all along.
Q. How many men did you see at the spring?
A. I guess 75 there.
Q. Did any of them have guns?
A. Some of them had guns.
Q. Any of theme have white handkerchiefs around their arms. A. No one only the two that had us.
Q. Who else did you see there?
A. Seen several othere fellows there.
Q. Did any of them have guns?
A. Some of them did and some didn't .
Q. What kind?
A. I don't know what kind of guns.
Q. Where did you go from there?
A. Went on to Hartford.
Q. Anything special happen that you remember?
A. Yes, sitting there and my father laid my mother down, thought she was dying, and had her head laying in his lap

and I was standing against a tree and one man said it would not take him long to go over there and smack that grey headed son of a bitch over.

Q. Who said that?

A. A man standing by me.

Q. Man in your crowd?

A. No, sir, belonged to the union.

Q. Have a gun? A. No, sir.

Q. Anything else happen there you remember?

A. Some man there and his wife and four or five children went with us and he had on his mine clothes and they told him they knowed him that they would give him a chance for his life, if he stayed until another crowd got there they
1992 would kill him, said they would stretch him to the best limb that would bear his weight.

Q. Then what happened?

A. Said you see that road there hit it and pointed to a tree and told him to hit it for that tree.

Q. What did he do? A. Lit out.

Q. What direction? A. East.

Q. Go to the tree? A. Yes, sir.

Q. How, walked?

A. Walked, running, Kind of a trot.

Q. Then what did you do? A. Took us, started to Hartford with us.

Q. You walk or ride?

A. Walked, put the women and children in a hack and took them down.

Q. You meet any people on the road?

A. Yes, lots of them.

Q. See anybody with guns?

A. Yes, all the people nearly had guns.

Q. Which way were they going?

A. Toward No. 3 camp.

Q. When you got to Hartford what did you do?

A. Took us there and put us in a old store house there.

Q. Where did you go first?

A. In a store house and took my mother up stairs, and got her a room—and sent after a doctor for her.

Q. Keep her in that room?

A. Yes, until the next day about twelve o'clock.

Q. Where did you go then?

A. Took her to another store house and put us all together.

Q. That the same place you went on Friday?

A. Changed.

Q. Not altogether on Friday? A. No, sir.

Q. How long did you stay in the other building?
A. One night.
1993 Q. Were you there all the time?
A. I was there that night.
Q. You go out at all on Saturday?
A. Yes, to a place to get my father a shirt.
Q. What place?
A. Next building before they moved us.
Q. Go by yourself?
A. May of the Town went with us.
Q. How do you know it was the mayor of the town?
A. Because they called him Mayor of the Town.
Q. See any people going along?
A. Crowded up all along.
Q. Who were they?
A. Union men crowded up around the door and had to keep them pushed back to keep them from coming in on us and before we went off the Mayor of the Town said if anybody said anything to me not to say anything back to them, they were all drinking and if I said a word they would kill us all.
Q. You get a shirt for your father? A. Yes, sir.
Q. What do you do then?
A. Went back where he was at.
Q. You know whether the men in Hartford knew your father had been back to Coal Creek and come back again?
A. I don't know if they knew he had been back there and come back or not.
Q. How long did you stay there in the store house?
A. In the last place we stayed there until Sunday morning.
Q. Where did you go then?
A. Put us on the train and started us back.
Q. What time did they put you on the train?
A. 6:30 I believe.
Q. Have your breakfast? A. No, sir.
Q. Where did you get any?
A. Not until we got in Little Rock.
Q. How long was that? A. All day.
Q. What did you get to eat at Little Rock?
1994 A. Don't remember.
Q. Who got it for you? A. My father bought it.
Q. When did you get home? A. We got home on—
Q. How many days?
A. Three days from the time we started from there.
Q. You know who paid your fare?
A. No, sir, the Mayor of the Town got the tickets.

Q. Say anything when he gave your tickets as to why he sent you away?
A. No, sir, I didn't.
Q. You mean you didn't hear him? A. No, sir.
Q. When you came down to the spring you said there was some men there, you recognize any of them know the name of any of them?
A. No, sir.
Q. Ever seen any of the men before you saw at the spring?
A. No, sir, not only what was with us.
Q. The new ones?
A. No, sir, didn't know any of the new ones at all."

1995 Mr. Grant: (reading):

"Cross-examination.

By Mr. Covington.
Q. You know all of the men that was employed at the mine where you were employed? A. No, sir.
Q. How many were you acquainted with?
A. Just what went from here out there is all.
Q. And you could meet them and not know who they were?
A. In that country—I would know them in that county if I met them.
Q. Know them all? A. Yes, sir.
Q. You work at the mine? A. Boarding house.
Q. Did all of the employees there board at that place?
A. No, sir, not all of them.
Q. How did you get acquainted with those that didn't?
A. Some I didn't get acquainted with, several of them.
Q. You have been talking about union men, answering union men did so and so, now name those union men you say are talking about, and what you mean by the word union?
A. They have got an order, they belong to the union is what makes them call that I reckon.
Q. You know any of them? A. No, sir.
Q. Why do you say that?
A. Altogether with the union men.
Q. You don't know there was a single union man in that crowd do you?
A. I don't know for sure they said they were.
Q. Who said it? A. They did.
Q. Who did? A. The men that were outside.
Q. The men told you they were union men?
A. Yes, sir.

Q. How did they come to approach that subject to you?

1996 A. Told it on their own account.

Q. Just stood up and said it?

A. Telling what we ought to be then.

Q. Where were you then? A. Hartford.

Q. You talked the matter over at Hartford?

A. They talked it over with me.

Q. This is the first time you had mentioned it?

A. No, sir, all along.

Q. All along the line? A. Yes, sir.

Q. Your father hear the same thing you did?

A. I reckon he did.

Q. Your sister hear the same?

A. About the union that I did, yes.

Q. You say four or five shots were fired early in the morning?

A. I never heard the first shots, I never heard it at three or four o'clock, I never heard any of that at all.

Q. Didnt hear the first shots alleged to have been fired at that time? A. No, sir.

Q. Now did they say what union they belonged to?

A. Local union they said.

Q. They tell you the number of the Local Union?

A. No, sir.

Q. State whether it had a number or not?

A. Never said.

Q. Did you ever see any men that said they belonged to the union before you went out there?

A. No, sir. A few through this country here.

Q. Can you tell one when you see him?

A. No, sir.

Q. Tell a union man when you see him?

A. No, sir.

Q. You know the name of a single man you say on

1997 the 17th day of July, 1914, from the time you got out of bed that morning until you left the section of country in which the mine was located, where you were employed at the boarding house, except those that went away with you, that you know? A. No, sir.

Q. You dont know whether they belong to a union or whether they were non-union, do you?

A. No, sir, not outside, I dont know only what they told me.

Q. Now the people you say along the road, many women and children out there, wasnt there? A. Yes, men.

Q. Wasnt there women and children? A. Yes, sir.
Q. Over that entire country? A. Yes, sir.
Q. 1500 or 2000 people scattered over that country?
A. No, sir, not that many.
Q. How many was there?
A. Was not any women where they were shooting at all.
Q. Any at the spring or well?
A. Not there, at the house below the spring some there.
Q. Where did you first strike the crowd going in the direction of the mines and coming back from that direction when did you intercept that line?
A. On the road to Hartford, met crowds along the road.
Q. How were they traveling?
A. Going toward No. 3 camp.
Q. Were they in wagons, buggies, horse back or afoot?
A. Some in wagons, in buggies and several afoot, every way.
Q. Any effort made to kill you, if so who did it?
A. Not along the road they didnt.
Q. Was any white handkerchiefs tied around the
1998 arms of those you met on the road to Hartford?
A. A few.
Q. About how many?
A. Near 75 of them I guess, I would not say for sure.
Q. The women they had white handkerchiefs tied around their arms also?
A. I dont remember any handkerchiefs around the women's arms at all.
Q. Looking at them were you not?
A. Looking at them as I passed.
Q. Didn't the ladies that had on dark dresses have white handkerchiefs and only those that had on white waists didnt have handkerchiefs?
A. Dont remember what sort of clothes they had on at all.
Q. See any white handkerchiefs in the town of Hartford?
A. Not only the fellows that went with us.
Q. Those fellows on the side of the mountain go into Hartford?
A. Yes, took us into Hartford.
Q. Those two men with white handkerchiefs on their arms? A. Yes, sir.
Q. You know the name of the man that drove the wagon?
A. No, sir, said he was sheriff of the county and a preacher.
Q. He said he was a preacher did he? A. Yes, sir.

Q. And sheriff of the county? A. Yes, sir.
Q. Tall man wasnt he? A. Yes, sir.
Q. Light complected?
A. I dont know what complexion.
Q. Had a gun in the wagon didnt he?
A. Yes, and a pistol buckled around him.
Q. Certain of that as about everything else you have testified to, you say he had a pistol buckled around him?
A. Yes, sir.
1999 Q. Did your father take you out there or some one else induce you to go?
A. My father took me, got me to go.
Q. Father pay your way? A. Yes, sir.
Q. Pay his own way?
A. No, sir, I dont think he did.
Q. He paid the railroad fare for your mother?
A. No, sir, they paid it for him and he paid them when he got there.
Q. Didnt pay for you and your mother?
A. Yes, they paid.
Q. And you paid them back? A. Yes, sir.
Q. That the way of it? A. Yes, sir.
Q. You know what kind of a place you were going to?
A. I knowed we were going to open shop mines.
Q. Told you that? A. Yes, sir.
Q. You testify to what your father said about that?
A. He said it was an open shop mine, didnt seem to be any trouble there at all the way it was working then.
Q. You left here on the 10th and were three days and nights getting out there? A. Yes, sir.
Q. That was the first time you had been in that section of the country? A. Yes, sir.
Q. You were not acquainted with anyone except that that went with you? A. That's all.
Q. Now in four days time you so familiarized yourself with the faces and personal appearance of the employees of that mine that you say you would recognize the majority of them?
A. No, sir, would what went out there with me, that's all.
Q. When you went down to the mine that morning about seven o'clock, I believe you say, who went with you?
A. 6:30 or 7, I was already there I didnt have to go.
Q. What were you doing there?
2000 A. Working in the boarding house.
Q. How far was the boarding house from the tip?
A. As close as from here to the depot, I dont know how far, right at it, very near.

Q. Where did you get with your sister that morning?
A. There at the store.
Q. How far is the store from the boarding house?
A. In talking distance of the boarding house.
Q. What did you do out there at the store?
A. Didnt do anything, just went out there.
Q. What was your business?
A. I think I went after a sack of smoking tobacco.
Q. Carry Mr. Martin along with you to get that?
A. No, sir.
Q. You meet at the store?
A. No, sir, the store was already open.
Q. He was just out there like you were, that it?
A. Mr. Martin, you mean with my sister?
Q. Yes.
A. They just come there when I got there.
Q. Who did you mean by they?
A. Mr. Martin and my sister.
Q. After they arrived where did you go?
A. Stayed there and talked a little while and the shooting took place and we started on home.
Q. Any shooting going on about the time your sister and Mr. Martin arrived?
A. Not at that time commenced in about twenty minutes best I could recollect.
Q. During that 20 minutes what did you and your sister and Mr. Martin discuss?
A. I dont know what we was talking about now.
2001 Q. Was not talking about fighting? A. No, sir.
Q. Not arming yourselves and going out to fight?
A. Dont know what we was talking about.
Q. Go straight from there to your home?
A. I went around the road, they went the hollow.
Q. What road?
A. The dirt road around toward No. 3 camp.
Q. That road run in what direction from the store where you were?
A. Kind of south of the mine.
Q. Toward this tipple you say was afire when you left there? A. Yes, toward No. 3 tip.
Q. How close were you to this No. 3 tipple at the nearest point of the road you were traveling on?
A. I never seen the tip burning until we went out on the bluff and they was taking us to Hartford.
Q. That was the first time you ever saw that tipple, when it was afire?

A. Yes, when they started to take us to Hartford.
Q. You lived in that boarding house four days and never seen that tipple?
A. Just at a distance is all, top of it.
Q. How close was this road you traveled going from the store on the 17th, back home how close did it approach the burning tipple?
A. I dont know never went the road until I got home about a half a mile to the tipple was as close as I was to it.
Q. Where did you see some men?
A. North of the mines.
Q. How many?
A. Didnt count them, dont know how many.
Q. About?
A. Looked like ten or twelve or more.
2002 Q. Doing anything? A. Shooting.
Q. At what? A. In the camp, at us I reckon.
Q. Any shooting going on from the camp?
A. Been two or three shots fired out of the camp at that time, did not count them and did not shoot.
Q. Wasnt the United States Marshals doing lots of shooting at that time?
A. No, sir, in camp.
Q. Where were they doing that?
A. Were not shooting at that time no where.
Q. You say you saw Mr. Suttles?
A. Yes, that morning.
Q. What time did he get to the boarding house that morning? A. About 6:30.
Q. You examined his overalls and saw the bullet hole?
A. No, sir, never examined them, he showed me.
Q. You looked at them? A. Yes, sir.
Q. Not a bit excited about it? A. No, sir.
Q. Calm as he could be? A. Yes, sir.
Q. Have a gun with him?
A. No, sir, not at that time.
Q. Now he came there about 6:30 how long did it take him to get through breakfast?
A. I dont know, didnt time him and dont know how long he was in there, may be twenty minutes or thirty minutes, dont know.
Q. Where did he go after he got done eating?
A. I dont know.
Q. Leave the boarding house? A. Yes, sir.
Q. Anyone with him when he came?
A. No, sir, best I recollect he was by himself.

Q. How many men took breakfast at that boarding house that morning?

A. I dont know never counted them.

2003 Q. About how many?

A. Would not say for sure how many.

Q. What time you say you got up that morning?

A. About six o'clock.

Q. And had breakfast ready at 6:30?

A. I was not cooking, another one done that, I got up to set the table.

Q. Up to that time you had heard nothing out of the ordinary? A. No, sir.

Q. Didnt know anything about the matter until Mr. Suttles came in with a hole shot in his overalls?

A. No, sir.

Q. Will you stand up there and indicate just where the overalls were perforated with the bullet?

A. I cant say for sure where it went to.

(Witness stand up and shows where the bullet went through).

Q. It came to a line just below the point of the shoulders, drawing a line from the point of the shoulders from one to the other how far below that line did Suttles' overalls extend?

A. Top of his overalls came about even with under his arms.

Q. Which side of the overalls did the bullet pass through?

A. Would not say for sure which side now, I dont know.

Q. Have on any shirt? A. Yes, sir.

Q. Shirt have a hole in it? A. No, sir.

Q. How big was the hole?

A. I dont know I never tried to measure to see.

Q. Give some idea, you say you looked at it?

A. About the size of a hole in a cartridge hull I guess.

Q. You never see a hole made in clothing that way with a bullet?

A. Thats the first one I ever seen through clothing with a bullet.

2004 Q. Just one hole? A. Yes, sir.

Q. Could you tell whether it came in from the back or front by looking at it? A. No, sir.

Q. His shirt or arms above the elbow were not disturbed any way you could see? A. No, sir.

Q. Just a hole in his overalls? A. Yes, sir.

Q. That the first intimation you had of anything wrong?

A. Yes, sir.

Q. And you stood around after you went to the store and talked a considerable length of time with your sister and Mr. Martin? A. Yes, sir.

Q. The shooting opened up and the bullets began to ring around you and you started? A. I started then, yes.

Q. Up to the time you left your home to go on the hill—?

Q. I never stayed at home at all.

Q. Did you go to your father's house that morning?

A. Yes, when I left down there I did.

Q. I will say then, from the time you left your father's house and went on the hill in company with him and others, how many shots you say had been fired from the mine down there by those around the tipple? A. I don't know.

Q. You said until you left the store probably two or three? A. That many or more, I said.

Q. Mr. Thomas, didn't you know that the company's guards had been shooting from that stockade from just about the time you mentioned, about seven o'clock, and continued to shoot there until the time you went out on the mountain?

A. It was about 6:30 when they commenced shooting down there.

Q. You mean shooting from the mine or outside?

A. Outside into the inside.

2005 Q. How do you know they were shooting into the mine not down there at the time at all?

A. I was down there when they first commenced shooting.

Q. At the mine proper? A. At the store.

Q. Just at the store? A. Yes, sir.

Q. Didn't you and your sister and Mr. Martin go right in behind the boilers there to see if you couldn't ascertain the whereabouts of Mrs. Perry's husband, didn't you do that? A. No, sir, went right back the road.

Q. You see anybody along the road?

A. I seed several men along the road.

Q. Have guns? A. Some of them did.

Q. About how many?

A. I don't know how many, some few of them.

Q. Did you ever work in the mines? A. No, sir.

Q. Never in one in your life? A. Yes, been in there.

Q. Don't know anything about the work?

A. No, sir.

Q. What brought you here today to testify, who had you come here?

A. These fellows, Mr. Bache and this fellow. (Pointing to Mr. Drinker.)

Q. Bache come after you in person?
A. No, sir, up there yesterday evening, and he told us.
Q. Who was he, seen him here today?
A. Yes the man there, Mr. Curtis.
Q. When did you first see Curtis, how long ago?
A. Thursday, last Thursday.
Q. How far you live from Clinton, how many miles?
A. Ten miles or more.
Q. You mean Thursday, yesterday or yesterday a week ago? A. Thursday a week ago.
2006 Q. What town you live in? A. New Tazewell.
Q. He came up there to see you?
A. No, sir, came down here.
Q. Mr. Bache here when you got here? A. No, sir.
Q. When did you first see him?
A. Not until he came out there yesterday.
Q. Were you under contract to work for anybody at Arkansas, at Prairie Creek?
A. Work for the mine, the company.
Q. Were you under contract to work for them?
A. I don't reckon under contract.
Q. You had no agreement? A. No, sir.
Q. Who were you working for?
A. Prairie Creek Coal Company.
Q. Who was Superintendent of that Company?
A. I forget his name, can't think of it.
Q. Where was the Prairie Creek Coal Company located and what was its business?
A. Cleaning up and getting out coal.
Q. Where was it located? A. Don't know.
Q. If they were engaged in any kind of business at all you don't know it?
A. They were working and getting out coal.
Q. You know that Prairie Creek Coal Company was doing this work?
A. Sure was doing the work, I reckon they was.
Q. I ask you now, Mr. Thomas, if you know whether that is true?
A. It went by that name, Prairie Creek Coal Company.
Q. Where was the Prairie Creek Coal Mining Company doing business? Where were they transacting business?
A. Coal business.
Q. Where? A. Prairie Creek.
2007 Q. Was two companies running that mine at once?
A. I don't know."

(I will skip from here to the bottom of page 25 of the same witness' deposition.)

"Q. Who paid you for your work, what company?
A. Prairie Creek Company.
Q. You took your pay in checks or cash? A. Cash.
Q. You received a statement of your time before they paid you? A. I don't know was not there any pay day.
Q. You paid there for your services? A. No, sir.
Q. Where were you paid? A. Not been paid yet.
Q. Still owe you for that four days do they?
A. Yes, not been back after it.
Q. Never been after you to pay it either, have they?
A. No, sir.
Q. Did you know the two fellows that come on the mountain to you? A. No, sir.
Q. Did you have any understanding, or were you instructed by any one in authority what to do—what to do in case any trouble arose? A. No, sir, I didn't. No, sir.
Q. Did any one else in your presence or hearing?
A. No, sir.
Q. What did you mean by saying I didn't?
A. Because I didn't hear anything, or anyone say anything to me about it.
Q. Anything said to anybody in your presence about it?
A. No, sir.
Q. Then you say now you didn't know any one you met on the day of this alleged trouble, the 17th of July,
2008 1914, except your father and those that were with you, that went from Coal Creek to that state in company with you? A. That's all I knowed.
Q. You further say you don't know now and didn't know then the name of a single man that you met that day on the road or elsewhere except those you have named?
A. No, sir, only them that went from here with us.
Q. You don't know whether you met or saw that day belonged to an organization or not?
A. No, sir, just what they told me.
Q. Did they pay your father for his work down there?
A. First work he done there they did.
Q. Pay for the last? A. No, sir.
Q. Did they pay your brother-in-law, Perry?
A. He said they did, yes.
Q. I asked what you know about it, not what they said.

(No answer).

Q. Wasn't anything to keep those people from shooting you that day you went down by the tipple on your way to Hartford?

A. No, sir, not a thing in the way to keep them from killing me.
Q. Did you go back to camp that afternoon of the 17th?
A. No, sir.
Q. What was the name of the tip you saw fire, the name of the mine? A. No. 3.
Q. How far is that from the boarding house where you say you were working?
A. About a mile, the best I remember.
Q. Were you ever in the house or office down at the mine where they kept their supply of arms and ammunition?
A. No further than the door.
2009 Q. About how many hundred rifles have in there?
A. Didn't have a hundred I don't think, I don't know how many.
Q. Whole room full, didn't they?
A. Not when I looked in there.
Q. Didn't they have the boxes of ammunnition?
A. Boxes of something I didn't examine to see what.
Q. You there when one of the guards shot two others?
A. No, sir, don't think I was.
Q. You know a high power gun when you see it?
A. No, sir, don't know as I do.
Q. Back to the mountain, when those men came to you up there you say they approached you and asked you what you were doing there? A. Yes, sir.
Q. Where were your guns and all that? A. Yes, sir.
Q. And you told them what you were doing there?
A. Yes, sir.
Q. Then they said they would help you out of there?
A. Yes, take us out.
Q. Show you how to get out?
A. Take us out they said.
Q. That all that was said or done on that occasion?
A. That's all that was said or done there I remember.
Q. That's all they said?
A. Throwed their guns down on us when they first come up.
Q. Throwed their guns on you? A. On the crowd?
Q. Didn't throw them on your daddy alone?
A. On the crowd I said.
Q. You had forgotten that, had you, when you said you had told all that occurred?
A. Throwed their guns on the crowd.
Q. You had forgotten that particular part of it?
2010 A. Yes, sir.
Q. You know Buster Moore? A. No, sir.

Q. You know Harry Dunlap?
A. Yes, seen him a few times.
Q. Know Terrence Molly? A. No, sir.
Q. You know Johnny Molly?
A. No, sir, didn't know him.
Q. You know Charley Cheek?
A. Seen him there a few times.
Q. You acquainted with a man there which was named, worked around the camp—called Rusty?
A. Not acquainted with him, seen him.
Q. That what they called him?
A. Yes, called a fellow Rusty.
Q. He there after you went there?
A. He was there when I was there, yes.
Q. You know about when he left there? A. No, sir.
Q. How many days before this trouble? A. No, sir.
Q. You saw him about the place there?
A. I don't know how many days it was.
Q. But there was a man there who responded to that name, Rusty? A. Yes, sir.
Q. What aged man was he?
A. I don't know, looked to be about 35.
Q. 35 years of age? A. Yes, sir.
Q. What complexion? A. I don't know.
Q. What sized fellow? A. Low fellow.
Q. Weigh about 170 or 175 pounds?
A. I guess he would weigh about 150, best I remember.
Q. What was he doing around the mine?
A. I don't know what he was doing.
Q. Was he discharged after you got there?
A. I don't remember if he was or not.
2011 Q. Did you know a man named Riley?
A. No, sir, didn't know him.
Q. The men that you refer to as having been run off out the road and the three that was pointed out to him, you say that his family was carried into Hartford? A. Yes, sir.
Q. I will ask you if it is not a fact that the husband of the mother, and the [fother] of those children, if they were not all carried into the Town of Hartford at the same time you were and that the man's name was Riley?
A. This man was not carried there with us.
Q. Who told you, how did you learn that he was the husband of this woman, that he was head of that household?
A. She did.
Q. What became of her and the children?

A. Sent her somewhere, I forget where, back to her old home place.
Q. Over to Oklahoma, wasn't it? A. No, sir.
Q. When did they go away?
A. They started on Saturday evening.
Q. That was the only family with your family and others in that house, the only family that was carried down there and stationed in Hartford? A. Besides our yes, sir."

Mr. Drinker: I will read of the cross-examination omitted by counsel questions 184 to 190, inclusive, and the answers, as follows:

"Q. Where was the Prairie Creek Coal Mining Company doing business? A. At Prairie Creek.
Q. Where was Prairie Creek Coal Company doing business? A. Prairie Creek.
Q. Now do you know whether both of those compa-
2012 nies were operating that mine at that time?
A. I don't know if both or not.
Q. Which one you say was operating the mine the Prairie Creek Coal Company? A. Yes, sir.
Q. That's the company?
A. That's the name of that place where we was at, yes.
Q. Who paid you for your work, what company?
A. Prairie Creek Company.
Q. You took your pay in checks or cash? A. Cash."

2013 J. R. BAILEY, called as a witness on behalf of plaintiffs, being first duly sworn, testified as follows:

Direct Examination

By Mr. McDonough:
Q. Where do you live, Mr. Bailey?
A. Three miles below Clarksville.
Q. What business are you engaged in? A. Mining.
Q. How long have you lived in that community?
A. I was principally raised there.
Q. What kind of business were you in in 1914?
A. Well, I was working at Prairie Creek part of the time.
Q. Before you were working at Prairie Creek where had you worked? A. I worked at Jimtown.
Q. What kind of business? A. Running an engine.
Q. What is your age? A. 32 years.
Q. Have you been engaged in other business in Johnson County other than the coal business? A. Yes, sir.
Q. What kind of business?

A. I worked principally at saw mill work there.
Q. Who employed you to work at Prairie Creek?
A. Employed me to work at Prairie Creek? The fellow that got me to work there, that told me to work, was old man Bud Eustis.
Q. He was the one,—
A. (Interrupting.) That sent me to work.
Q. That sent up there after you? A. Yes, sir.
Q. Were you then in Johnson County, Arkansas?
A. Yes, sir.
Q. You had lived there how long?
2014 A. I lived in Johnson County, I might say I was raised there; I have been living there off and on all my life.
Q. Then did you come to Fort Smith on your way to Prairie Creek? A. Yes, sir.
Q. Did you go to the office of the Bache-Denman Company? A. Yes, sir.
Q. Where did they send you then?
A. They sent me to Midland, told me to go down to No. 4.
Q. What kind of work were you employed to do at No. 4?
A. Guarding.
Q. Do you know a Mr. Barnes that was there? A. Yes, sir.
Q. State whether or not you were under him.
A. Yes, sir, I was under Mr. Barnes.
Q. Were you furnished a gun as a guard? A. Yes, sir.
Q. State what instructions, if any, were given you by Mr. Barnes as to what use you would make of the gun.
A. He gave me the gun, and said "don't you use this gun in no way except self-defense," or something like that. To never use the gun except in self-defense or some other way, inside.
Q. What were—were you guarding in the day time or night time? A. Night time.
Q. What time did you get to Midland, I mean what day?
A. Well, I believe it was Friday, the 3rd I landed at No. 4.
Q. The 3rd of what month? A. Of April.
Q. Of April? Did you go to work there on that day, or the following day, on Saturday?
A. No, I went to work Friday about 2:00 o'clock.
Q. Were you there during Sunday, April 5th?
A. Yes, sir.
Q. Did you have any difficulty with anybody on Sunday April 5th?
2015 A. No, not to amount to anything.
Q. If anything took place, tell what it was.
A. Well, we did have a little trouble down there, but I found out afterwards it was Clint Burris. He came by there,

I was guarding on the south side of the tipple, and he started down the wire, I guess maybe fifteen or twenty feet below where we had the rope stretched, and I asked him not to come through there, to go on down, and he made a remark about me being a scab, but went on down.

Q. What did he say?

A. He said, "I ain't going,—" I have forgot the words he did use, but anyhow, he called me a scab, and went on down, and I never understood what he did say as he got on down right smart.

Q. Was that all the trouble that you had?

A. Yes, sir, that is all that I remember of.

Q. Did you ever use any violent or profane or insulting language towards him? A. No, sir.

Q. Did you abuse anybody during that day?

A. No, sir.

Q. State whether or not you were arrested on that day?

A. No, sir, I was not arrested on that day.

Q. Were you there on the morning of the 6th?

A. Yes, sir.

Q. What were you doing on that morning?

A. I was guarding.

Q. Where were you guarding?

A. On the south side of the tipple.

Q. Were you there when a crowd came there?

A. Yes, sir.

Q. Where did that crowd come from?

A. Well, it came from the school house, a little north-
2016 west of the tipple. It came down the road from the school house, and came on the north side of the tipple

Q. Were you arrested before the crowd came?

A. Yes, sir.

Q. Who arrested you?

A. The constable, Slankard, I believe was his name.

Q. What charge did he make against you?

A. Breach of the peace.

Q. When? A. On the Sunday before.

Mr. Neal: We object, because we think that the record of the warrant and the judgment of the justice is the best evidence of what he was arrested for, and what he was charged with.

The Court: He can tell what he was told. The objection will be overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Q. Did he tell you when you were supposed to have committed the offense?

A. No, he never said when—well, I found out afterwards when I was told I had committed the offense.

Q. I didn't understand you.

A. He never said just when it was, but we found out at the trial that that was the day I was supposed to have committed the offense, on the Sunday before.

Q. On Sunday before? A. Yes, sir.

Q. Was anybody else arrested with you? A. Yes, sir.

Q. Who? A. Mr. Barnes.

Q. What charges did they have against him?

A. The same charge.

Q. Had you any knowledge of any offense having
2017 been committed by either you or Barnes?

A. No, sir.

Q. Was any bond required of you? A. Yes, sir.

Q. What was the bond?

A. I have forgot right now, I believe $250.00, maybe $300.00, I have forgotten.

Q. What was the bond for, your appearence where?

A. Hartford, I think.

Q. Do you remember what justice of the peace?

A. No, sir, I don't remember.

Q. Before some justice was it? A. Yes, sir.

Q. Were there any others with Slankard at the time that he arrested you? A. Yes, sir.

Q. Did you go to Hartford? A. No, sir.

Q. When were you due at Hartford, under your bond?

A. I have forgot now just when we was due there.

Q. Why did you not go there?

A. I don't know now, why we didn't go, something turned up that we didn't go down.

Q. What time in the morning was that arrest of you, on Monday morning April 6th?

A. That was about, I would judge between 8:00 and 9:00, well between 9:00 and 10:00 somewhere along there, I have forgotten now just when.

Q. Was it before the crowd had arrived? A. Yes, sir.

Q. Were you armed at the time? A. Yes, sir.

Q. What did they do with your gun if anything?

A. They never done anything with our guns.

Q. How did you make bond, Mr. Bailey?

A. I think the company put up a bond, maybe a cash bond; I disremember.

Q. State whether or not Slankard started to take you
2018 and Barnes away from there.

A. He started, and when we got up to the office, and, let me see, now, some one there, I don't know just now who it was, but anyhow, they intended to take us down there in a buggy to Hartford, but they finally made the bond, a cash bond for us and we stayed.

Q. They had a buggy there to take you and Barnes over to Hartford that morning?

A. Yes, sir, they had a buggy, the bookkeeper or somebody was going over in a buggy with us that morning.

Q. What did you do after you gave the bond?

A. I went back to my post on the south side of the tipple.

Q. What was the first knowledge that you had of the coming of the crowd there?

A. Well, that morning, about—somewhere about 8:00 or 9:00 maybe 10:00, we heard the band begin to play over there around the school house, and we didn't know for sure whether they were going to come or not, but Mr. Barnes at noon time, I believe it was about noon, he had a couple of letters he wanted to mail, and he said, "I am going up to the guard house" that is about a quarter, I imagine, from the tipple, and he said "I am going up there and if they come while I am gone, you stay on your side of the post, and if they come on my side you stay right where you are", and sure enough they came up on his side, the side that he was guarding, on the other side of the tipple, and then he came back and said, "Let's go up there" and I said, "We had better not go" and he said, "Oh, yes, let's go up there", and we went, and he began to instruct me right away, and said, "Whatever you do don't raise that gun in an attempt to hurt anybody at all; don't do that, just use common sense, and ask them not to cross the rope,
2019 or break over it", and we did so. We had not been there over five or ten minutes until a rock came from a wagon, or somewhere, and hit Mr. Barnes on the hat and knocked his hat aff, and about that time there was some little crippled fellow that had an arm all burnt up, I reckon by gas in the mine, he stepped over the rope, and Mr. Barnes asked him to step back, and he said, "If you want me back you can shoot me back" and Mr. Barnes said, "No, we ain't going to hurt nobody, or shoot nobody". Mr. Slankard, and two other fellows stepped over the rope, and said they were appointed a committee to talk to the superintendent.

Q. Keep your voice up so that they can hear you.

A. (Continuing.) They said they were appointed a committee to see the Superintendent about the trouble, and while

they were gone in the office, they made the raid on us, and taken our guns away from us.

Q. They done what?

A. They made the break over the rope and took our guns away, and beat us up.

Q. Who took your guns away from you?

A. I don't know the fellow. the fellow's name.

Q. But it was taken away from you? A. Yes, sir.

Q. And what was done then?

A. They beat us up, knocked us down two or three times, and then I made my escape to the office, and Mr. Barnes went to the guard house.

Q To what extent were you hurt?

A. I was hurt pretty badly, knocked me down, and cut three or four gashes in my head, and when I was down they kicked me in the back, and I still feel the effects of that today.

Q. Did you make any assault on anybody there?

2020 A. No, sir.

Q. Did Mr. Barnes? A. No, sir, not that I saw.

Q. Did you know how many people were there on the outside of that rope when they came up?

A. No, sir, I don't know.

Q. Can you give an estimate of the crowd that assembled down at the school house?

A. I would judge three or four hundred men, there might have been more than that, I cannot tell.

Q. You went to the house, did you say?

A. I went to the office.

Q. You went to the office? A. Yes, sir.

Q. What became of you then?

A. I stayed in the office there a couple of hours, I don't remember how long, and then I went from there to the guard-house, and there I seen Mr. Barnes.

Q. Then what became of you?

A. He had done 'phoned for a car to come in from Fort Smith after us, and we came on in.

Q. Did you come in to the hospital? A. Yes, sir.

Q. How long did you remain in the hospital?

A. Five days I believe I was at the hospital.

Q. Did you go down to the mine any more? A. Yes, sir.

Q. What kind of work did you do when you went back?

A. I guarded.

Q. When did you go back?

A. The best I remember, I went back on the 12th—I don't remember when I did go back, I just don't remember when I did go back. I went back though in a week or such a matter, two weeks I would say, when I went back there maybe.

Q. Were you arrested at any other time after that?
2021 A. Yes, sir.
Q. When was that?
A. Let me see. I forget now. I believe it was the 18th or 19th or 20th, somewhere along there, of June, I believe.
Q. What were you charged with then?
A. No, it was not, it was in May. Well, I was charged with disturbing the peace then.
Q. What was the nature of the charge; disturbing the peace how, if you know?
A. They claim I got off on the 16th day of May, at Prairie Creek, and they said I talked ugly to a little girl.
Q. Did you do that? A. No, sir.
Q. Were you in that crowd at all? A. No, sir.
Q. Had nothing to do with that? A. No, sir.
Q. Were you tried on the first charge, the one that they had arrested you for on the morning of the 6th of April?
A. No, sir, I was not tried. They sent an attorney down there.
Q. Over to Hartford? A. Yes, sir.
Q. You didnt' go there? A. I didn't go there.
Q. Of your own knowledge do you know what finally became of that case? A. No, sir, I don't.
Q. What became of the other charge, the one charging you with insulting the girl?
A. To the best of my knowledge they whipped that around, and fined me a hundred dollars and costs at Midland, and then they brought it to Greenwood.
Q. It was appealed?
A. Yes, sir, and it was appealed from Greenwood to Fort Smith.
Q. A change of venue taken from Greenwood to Fort Smith? A. Yes, sir.
2022 Q. And what was done with it here?
A. Throwed out, to the best of my knowledge.
Q. Dismissed? A. Yes, sir.
Q. Going back for a moment to the trouble, I will ask you whether or not you saw anybody hit Barnes with anything?
A. Yes, sir.
Q. What with?
A. I would judge it was with the same gun that they started to hit him, I throwed up and knocked the lick off of Barnes the best I could, but it was the same gun they had taken off of Mr. Barnes.
Q. Was it a rifle or pistol? A. Rifle.
Q. On what part of the body did they hit him with the gun?
A. Just glanced his cheek that time, and I knocked it off.

Q. In that difficulty did you hear Barnes use any rough violent or insulting language of any kind? A. No, sir.

Q. When you came back through the yard, did you observe the condition of any of the property there what had been done to it, if anything? A. Yes, sir, I came back—

Q. (Interrupting.) Describe what you saw.

A. I came back down through what we call the bunk house, down there, and they had throwed mattresses and springs and things, and covers, and throwed them all on the floor, and that is about all I reckon.

Q. Do you know who did that of your own knowledge?

A. No, sir.

Q. You found it there as you came back through?

A. Yes, sir.

Q. Was that the property of the company that you and the other employes and persons guarding it had there for your use?

2023 A. Yes, sir.

Q. And that was thrown where?

A. Just around over the floor, scattered around.

Q. Any of it destroyed?

A. I can't say destroyed, it was just thrown around there.

Q. Mr. Bailey, how long did you stay at the mine when you went back there?

A. Well, I went back once, I have forgotten now how long, and I left there on the 29th or 30th of May. I don't know how long I did stay that time, somebody came in there, and was going to subpoena us to meet a committee or board member, or somebody at Hartford, or road overseer,—anyhow they came up there and was going to subpoena a lot of us, and they did subpoena several of the boys, and several of us dodged around to try to keep this man from subpoenaing us; we thought they wanted to get us over there and beat us up, and John Shaleen or someone, telephoned to Fort Smith, and they said to come on in, and 28 of us, I believe, walked around Sugar Creek Mountain, and got on the train and came to Fort Smith.

Q. State whether or not you were coming in to Fort Smith as witnesses in the injunction suit, or whether you were just called in? A. I can't say, I believe that was it.

Q. Shaleen was an employe of the company? A. Yes, sir.

Q. And it was at his request that you came here?

A. Yes, sir.

Q. Do you remember the last time that you worked there?

A. Yes, sir.

Q. When was that?

A. We went back I believe on the 2nd or 3rd day of May, and I worked up until,—no, I worked 12 days, to the
2024 best of my knowledge, the last time I was down there, and got shot.

Q. Explain about that, how you got shot.

A. I was working by the month, and Mr. Shaleen was kind of a boss and time keeper down there, and he didn't know how I was hired, and Mr. Bohanan was hired too by the month, as a guard, and Mr. Bohanan I believe was a day guard at the present time, and I was on nights when I went back the last time they put me on nights, and he came over there and waked me up, there was a little mistake in our time, Mr. Shaleen had not understood it though, and I had my arm on his shoulder some way that way (indicating), looking over in his face, and he must have been,—there was a step that came down from the office like, and I don't remember whether he had one foot up on the step or how, but someway, he dropped his gun, and it went off, and went through his arm and got me right there (indicating).

Q. Was it an accidental shot? A. Yes, sir.

Q. Was there any difficulty between you there at that time?

A. No, sir.

Q. None between any of you? A. No, sir.

Q. The shot was an accidental one? A. Yes, sir.

Q. You didn't work any after that? A. No, sir.

Q. What date was that? A. The 23rd day of May.

Q. During the time that you were there up to that time, Mr. Bailey, state whether or not you had anything to do with the shooting up of Frogtown? A. No, sir, I did not.

Q. Did anyone else of the employees or guards there to
2025 your knowledge do anything towards shooting up Frogtown? A. No, sir, not to my knowledge.

Q. Did you mention a man, a Mr. Bohanan awhile ago in your testimony?

A. Yes, sir, he was the fellow that got shot, Bill Bohanan.

Q. William Bohanan, that was the man you mentioned?

A. Yes, sir.

Cross-Examination

By Mr. Grant:

Q. You are Riley Bailey from Johnson County?

A. Yes, sir.

Q. How long did you work for the Pennsylvania Mining Company non-union mine before you went over to Prairie Creek to work in this mine for the Bache-Denman people?

A. I worked somewhere about three years.

Q. And who was it you say you employed you, and engaged your services to go down to the Prairie Creek property?

A. Bud Eustis.
Q. He was also an employee of the Pennsylvania Mining Company at that time?
A. No, sir, not at that time.
Q. He had been there, connected with it?
A. No, sir, I don't think at that time he was.
Q. Did he go from Prairie Creek back down there and become connected with that company's property?
A. No, sir, he just worked there.
Q. He just worked there like you did? A. Yes, sir.
Q. That is what I was getting at. You went then to Prairie Creek about what time was it in July?
A. On the 3rd day I think,—it was on Friday, in April.
Q. The 3rd day of April? A. Yes, sir.
2026 Q. 1914? A. Yes, sir.
Q. And when you got there,—who did you go with from Fort Smith down there?
A. Arch Caldwell.
Q. Arch Caldwell? A. Yes, sir.
Q. Who was he? A. A fellow from Johnson County.
Q. He came here to go down with you? A. Yes, sir.
Q. Did you meet anybody in Fort Smith that gave you directions what to do? A. Yes, sir.
Q. Who did you meet here? A. Mr. Finley.
Q. And he told you to inquire for Barnes when you got to the Prairie Creek property?
A. He told me that Mr. Bache was down there, and if he was not to inquire,—
Q. If he was not there to do what?
A. To inquire for Mr. Barnes.
Q. Was Bache there when you got there? A. Yes, sir.
Q. And you met him? A. Yes, sir.
Q. Was he the man that gave you your orders and how to work, and what to do about the mines? A. No, sir.
Q. Who did that? A. Mr. Barnes.
Q. What did Bache tell you?
A. He told me to see Barnes.
Q. When you got there, where did you see Barnes, what was he doing?
A. He was a guard, I found him on the south side of the tipple.
Q. Standing there with a gun? A. Yes, sir.
Q. He was pointed out to you, and you went out to where he was? A. Yes, sir.
Q. And you asked him what to do?

A. I had a recommendation from the Pennsylvania
2027 Mining Company, and I gave that to him.

Q. Recommendation as a guard from the Pennsylvania Mining Company? A. No, sir, as an engineer.

Q. What did he tell you to do there, to go in as an engineer or guard? A. No, sir, he told me to guard.

Q. He gave you a gun, did he? A. Yes, sir.

Q. What kind of a gun was it? A. 30-30-high powered.

Q. 30-30 high powered gun? A. Yes, sir.

Q. How many cartridges did he give you to go with it?

A. I don't think none, except what was in the gun.

Q. The gun was loaded?

A. I suppose there were shells in the magazine.

Q. He didn't give you an empty gun to guard with.

A. No, sir.

Q. He gave you a gun with a magazine full of cartridges?

A. Yes, sir.

Q. You know it was loaded, and why don't you tell the jury it was loaded, if you know it was.

The Court: Never mind your controversy with the witness, ask your questions.

Q. The gun was loaded? A. Yes, sir.

Q. Where did you guard?

A. On the south side of the tipple.

Q. Was that toward the school house, or on the other side?

A. No, the school house is a little northwest, and this was on the south.

Q. The public road runs right along where you were
2028 put to guard? A. No, sir.

Q. How far is that from the road?

A. The main public road runs north of the mine, but there was a little pathway west of the mine.

Q. There was a road there that people traveled generally along there, where you was guarding?

A. No, sir, I was guarding, you might say, between the two roads.

Q. You walked from one road to another, that was your beat? A. Yes, sir.

Q. You worked on the night of the third? A. Yes, sir.

Q. You say you guarded there until the 6th of April when the trouble occurred? A. Yes, sir.

Q. Who was guarding with you out there? At the time the crowd came up to the ropes? A. Barnes.

Q. Mr. Barnes? A. Yes, sir.

Q. Now do you know the name of the man that came up there and was talking with Mr. Barnes at the time the trouble started, the man that you have described?

A. No, I don't know his name.

Q. How many was with that man that talked to Barnes?

A. There was a bunch of them all together, and way back in behind the rope.

Q. The ones that came up talking to him, how many was in the party that came up talking to Barnes?

A. There were four or five hundred, as thick as they could be back from the rope.

Q. The whole four or five hundred, as I understand they were all talking to Barnes?

A. No, sir, they were back in, of course. There was
2029 a pretty good bunch in around there.

Q. You know the man that spoke to Barnes and did the talking for the crowd? A. No, sir.

Q. Did Barnes strike that man with the butt end of his gun, whoever he was? A. No, sir.

Q. And, did he push him back over the wire?

A. No, sir, he told him to get back.

Q. He didn't push him with his gun, or strike him [—] it?

A. No, sir.

Q. Do you know who it was that hit Barnes?

A. No, sir.

Q. How many times did they strike him?

A. I don't know how many times they struck him.

Q. Did they take the gun away from Barnes before they hit him? A. Yes, sir.

Q. Take your gun away from you before they struck Barnes? A. Yes, sir.

Q. You don't know who did that? A. Yes, sir.

Q. Was Slankard there you say?

A. No, sir, he was in the office at this time.

Q. He was in the office, and was not out there when the trouble occurred? A. No, sir.

Q. He came out afterwards, did he?

A. Yes, sir, afterwards.

Q. Now, you say Mr. Barnes instructed you not to raise the gun that morning?

A. Yes, sir, he instructed me all the time to use my gun in no way at all except in self defense, or something like that.

Q. But you say on the morning of the 6th, he told you not to raise your gun, what time in the morning did he give you that instruction?

2030 A. That was the same day, that was just before we went up there.

Q. Was Mr. Barnes and you expecting some trouble over there when he told you not to raise your gun?
A. Yes, sir, we allowed there might be.
Q. You allowed there might be some trouble there?
A. Yes, sir.
Q. There was considerable excitement around there that day, that morning? A. Yes, sir, quite a bit.
Q. And you had heard of it before?
A. No, we had not heard of it, except that band playing, and that big crowd gathering over there, and of course we might be expecting a little trouble, he was. I was not thinking much about it.
Q. Barnes was expecting trouble? A. Yes, sir.
Q. And told you not to raise your gun or do anything out of the way? A. No, sir.
Q. Do you know who it was that told Barnes he would have to shoot him back if he got him back? A. No, sir.
Q. Did you see Sylvester Howard there that day about the time the trouble occurred?
A. No, sir, I don't know him.
Q. How many times were you arrested? A. Twice.
Q. What was the date of your first arrest, if you can give us that. A. On the 6th of April.
Q. Now, you were charged with what at that time?
A. Breach of the peace.
Q. Breach of the peace? A. Yes, sir.
Q. Then the other time you were arrested was what day?
2031 A. That was about the 18th of May.
Q. That was when you were charged with insulting the young lady, was it, some girl?
A. No, I mean the 18th day of April, I reckon that was, instead of May.
Q. The 18th of April you were arrested charged with insulting some girl? A. Yes, sir.
Q. Do you know the name of the girl you were charged with having insulted? A. I heard the name at the trial.
Q. Was it Miss Johnson?
A. It seems like it might be Miss Johnson.
Q. You did insult one up there on the road near the school house, did you, on that public road? A. No, sir.
Q. Did you not insult a great many other women, ladies and girls on that public road near that school house?
A. No, sir.
Q. You were tried you say before a justice of the peace at Hartford? Supposed to be, I didn't go down.
Q. You didn't go to either of the trials?

A. Yes, sir, I went to the second one.
Q. It was at Hartford? A. No, sir, at Midland.
Q. Before Judge Quinlan? A. I don't know his name.
Q. And then the case was sent to Greenwood?
A. Yes, sir.
Q. And you took a change of venue up here? A. Yes, sir.
Q. Who was your lawyer.
A. The company lawyer, I have forgotten his name.
Q. The company furnished a lawyer? A. Yes, sir.
Q. How many guns were kept inside of that stockade for use of the mine guards?
A. I cannot tell you, I don't know exactly how many.
2032 Q. How many did you see, a very large number of them?
A. Not when I was there, I don't guess over ten or twelve in all.
Q. In all that you saw? A. Yes, sir, in all that I saw.
Q. Did they have a great deal of ammunition there?
A. Not much.
Q. Not much while you were there? A. No, sir.
Q. Were you guarding there on the night that Frogtown was shot up? A. No, if I was I didn't know it.
Q. Were you guarding there at the time of the battle on the 17th of July? A. No, sir.
Q. How long had you been away from there when that happened?
A. I left on the 23rd of May, and didn't go back any more except one time to the trial.
Q. You never worked there after the 23rd of May?
A. No, sir, I didn't work there no more.
Q. Were the guards doing any shooting during the time that you were working there? A. No, sir.

(Witness excused.)

2033 ARCH CALDWELL, called as a witness on behalf of the plaintiffs, being first duly sworn, testified as follows:

Direct Examination

By Mr. McDonough:
Q. Where do you live, Mr. Caldwell?
A. Johnson County, Arkansas.
Q. What business are you engaged in?
A. Mining business.
Q. Speak out loud. A. Mining.
Q. How long have you lived in Johnson County?
A. 41 years.

Q. What is your age? A. 41 years old.
Q. Born there? A. Yes, sir.
Q. Were you employed to go to Prairie Creek by any one in April 1914? A. Yes, sir.
Q. Prior to that time how long had you been engaged in the coal business, if at any time?
A. I had not been engaged in it.
Q. What kind of business had you been doing?
A. Saw milling.
Q. Farming? A. Saw mill.
Q. In Johnson County? A. Yes, sir.
Q. Who employed you to go to the mine in Sebastian County?
A. Well, Mr. Eustis was the first man that spoke to me anything about it, and said Mr. Bache had saw him over at Clarkville.
Q. Were you employed then by Mr. Bache, or someone for him? A. Yes, sir.
Q. When did you go to the mine?
A. On the 3rd day of May?
2034 Q. The 3rd day of May,—you mean May?
A. The third day of April.
Q. What kind of work were you employed to do, or were you employed as a guard or watchman, or to do work, and if so, how? A. Yes, sir, as a guard.
Q. As a guard? A. Yes, sir.
Q. Were you employed at the same time that Mr. Bailey was employed? A. Yes, sir, he and I went there together.
Q. Were you there on Sunday, April 5th, the day before the riot? A. Yes, sir.
Q. What were you doing there?
A. Well, I was asleep that day.
Q. Did you work at day time or night time?
A. The first evening I was there I worked, commenced work at little after dinner, about 1:00 o'clock, and I worked that evening and that night.
Q. And slept on Sunday? A. Yes, sir.
Q. Now, where were you on the next morning, the day of the riot? A. Well, I was asleep.
Q. Had you been on watch on Sunday night?
A. Yes, sir.
Q. And then went to sleep Monday morning, didn't you?
A. Yes, sir, about 9:00 o'clock. I guarded No. 3.
Q. What was the first knowledge you had of a riot, or any trouble?
A. Well, I heard a noise, it woke me up. I was up at the guard house, and I heard some hollering and whooping, and

it woke me up, and I got up, and then I heard the band playing, and then I stepped out on the porch and a big bunch of men were coming from the school house to the mine. Well, they was from the office, they were scattered from the office clear back to the school house when I first saw them,
2035 and I only had put my pants on, I didn't have my shoes on, and I stepped back in and put my shoes on, and then stepped back out on the porch again, and by that time they were all around over the mine there, they had broke in.

Q. Did you see Elmer Searles there that morning?

A. Yes, sir.

Q. Did you see him when you came out after you had dressed?

A. Yes, sir, I saw him coming along up the road toward the house where I was at.

Q. Just state what you saw?

A. I saw a bunch of men after him throwing rocks.

Q. Were they throwing rocks at him? A. Yes, sir.

Q. And he was running? A. Yes, sir.

Q. Did you see Jake Ritchie? A. Yes, sir.

Q. What was he doing? A. He was running too.

Q. About how many men, if you can tell, were running after him?

A. I don't know, it looked to me like two or three hundred men, that is the whole bunch there that was from the house scattered clear back to the mine, it was three or four hundred yards to the mine.

Q. Were they throwing anything besides rocks?

A. No, I don't suppose, rocks and anything they could get hold of.

Q. Were you at what you call the guard house when Looper and Sylsberry came there? A. Yes, sir.

Q. Did you see them?

A. Yes, sir, I first saw Mr. Sylsberry at a little bridge, about half way between there, he got down there, he fell down at the bridge.

Q. Did you see whether or not they were injured?

A. Yes, sir.

2036 Q. What was done with Sylsberry?

A. Well, he was brought in up to the house, some fellows brought him up to the house, and he was bloody, and they got some water and washed him.

Q. What was done with him finally?

A. They brought him to Fort Smith.

Q. State what was done to the whistle, if anything?

A. The whistle was blowing all the time, and the mud valve, someone turned the mud valve off, I could see it blowing.

Q. What was done to the boilers, if you know?

A. Well, the water was all let out of the boilers. The boilers was listed, and the flues were all loosened up in the boiler.

Q. Mr. Caldwell, did the crowd or anybody do anything with a flag there?

A. Yes, sir, there was a fellow put a flag up on the tipple.

Q. What kind of a flag?

A. Well, it was a United States flag.

Q. Anything else with it?

A. Yes, sir, there was a banner.

Q. A what?

A. I believe there was some kind of a banner.

Q. Banner? A. Yes, sir.

Q. Put up with the American flag? A. Yes, sir.

Q. Do you know what banner it was?

A. Well it says on that, it said, I believe it said on the banner "Union men's country" or county, or something like that.

Q. That was put up alongside of the American flag?

A. Yes, sir.

Q. And both put up on the tipple? A. Yes, sir.

Q. Did you have any conversation with these men that came in there around the mine?

2037 A. Yes, sir.

Q. Or hear any of them talk?

A. Yes, sir, I talked with two.

Q. State what you heard said.

A. Well, when they brought Mr. Sylsberry and Mr. Looper up there, there was a fellow looked up at me and said, "Slim, what are you doing here" and I said, "I am [going] just like the rest of the boys, the best I can" and he said, "You don't look like you were a miner, how come you here" and I said, "Just simply because I needed a job, and needed the money, that is all I can tell you." And they said, "If you have anything here you get it and get out of here," and I said, "Man, I don't want to go out through that big crowd, they are liable to hurt a fellow," but I said, "We are going just as soon as the automobiles come up from Fort Smith after us," and they said, "That is all right if you go then, but you be sure that you go, and when you go don't come back here again," and they said, "If we ever catch you back here again, you will be in danger, and you are liable to get killed," and I said, "I will never be back, I am leaving."

Q. Who were the men that were talking to you?
A. Well, I didn't know the men.
Q. Were they men that were employed there at the mine, or men that had come there in the crowd?
A. No, one of them had a badge on his coat, city marshal, or constable, from Hartford, and the other fellow was a sandy complexioned fellow, kind of curly red hair.
Q. Do you know his name?
A. Well, I have heard. I have been told since that his name was Howard.
2038 Q. Howard? A. Yes, sir.
Q. What became of you then, Mr. Caldwell?
A. I came in to Fort Smith.
Q. Did you go back down there any more? A. Yes, sir.
Q. When did you go back? A. The 29th of April.
Q. In the employ of the company? A. Yes, sir.
Q. As a guard?
A. No, I was not guarding, I taken some men down there.
Q. Taken some men down? A. Yes, sir.
Q. Do you know Charlie Robinson? A. Yes, sir.
Q. Did you have any conversation or talk with him at any time, in taking these men down, or hear him make any statement with reference to that trouble?
A. Why, I talked with him here, I was a witness here in the trial for the injunction.
Q. State what was said here?
A. I had a talk with him here in the court room, and that is one reason I went back, he told me there would be no danger until they went to hoisting coal?
Q. He told you there would not be any danger until they went to hoisting coal? A. Yes, sir.
Q. What did he say, if anything, would happen when they went to hoisting coal?
A. He said the place would be tore up, and that "You had better be down in Mexico in the army, you will be safer than in Prairie Creek."
Q. When was that, Mr. Caldwell?
A. When he told me that?
Q. Yes. A. That was about the 5th day of May.
2039 Q. That was during the hearing on the injunction proceeding? A. Yes, sir.
Q. You were a witness on the injunction proceeding?
A. Yes, sir.
Q. And Robinson was one of the defendants in the injunction suit, was he not? A. Yes, sir, he said he was.
Q. And a union miner? A. Yes, sir.

Q. What else did Robinson say, if anything?

A. Well, he told me that if he was me he would not go back down there, he said you are not a miner, you say you are not, and he says—I told him the reason that I went, that I needed the money, and was out of a job, and he says, "If you will not go back down there, and you don't get a job, or get up against it in any way, if you will write me (and he wrote me his name and address on a piece of paper) I will help you." He said, "I have a whole lot of influence down there" he said that he was secretary, or had been secretary of the local.

Q. Do you recall anything else he said in that conversation relating to the trouble that might be there when they went to hoisting coal, anything else?

A. Only he said that the place would be tore up, and I had better not be there. He said, "You will be safer, you had better go join the army, you would be safer in Mexico in the army."

Q. Did he refer to any trouble in any other state?

A. Yes, sir.

Q. What did he say?

A. He said, "You know what they done in Colorado," and he says, "The same thing will be done here."

The Court: What was that answer, please?

2040 (Answer read by official stenographer.)

Q. What is your age, Mr. Caldwell?

A. 41 years old.

2041 Cross-Examination

By Mr. Grant:

Q. Mr. Caldwell, you were commonly known as Slim down at the mine, were you? A. I don't know.

Q. They called you that around there, didn't they?

A. That fellow that came up there called me Slim.

Q. And other people called you Slim there, too, didn't they? A. Not that I know of.

Q. You spoke about your extended conversation with Charley Robinson,—Uncle Charley is dead, isn't he?

A. I don't know.

Q. You do not know whether he is dead or alive?

A. No, sir.

Q. Were you so situated there you could see the crowd assemble around the school house? A. Yes.

Q. How long did you stand there and look at them?

A. I stood there and looked at them until they came up there.

Q. Could you tell about how many was in that crowd?

A. No, sir, I could not tell.

Q. What is your best estimate? Just estimate it.

A. It looked like there was 700 or 800 men all around from the school house clear around.

Q. Seven or eight hundred men? A. Yes, sir.

Q. How many women was in that crowd?

A. I don't know.

Q. A large number of women was in that crowd, wasn't there?

A. I don't know whether there was any women at all in it or not. There was some women up close to me.

Q. You saw women around the school house in the crowd, didn't you?

A. I don't remember whether I seen any women. There was people there. A big bunch of them, all bunched up together.

2042 Q. You saw some children in that crowd, too, didnt you?

A. No, sir, I dont believe I did, if I did I dont remember. I never noticed them.

Q. You wont say there were no women there in that crowd, will you? A. No.

Q. And you wont say there were no children there, will you? A. No.

Q. And to your best recollection there were about 750 men in the crowd?

A. I dont know. There might have been boys and children, I dont know, just looking over a crowd that way, by my estimate.

Q. The entire crowd you would say was about 750, in your estimation?

A. Yes, it might be more or less.

Q. How long did they [they] stay around the school house before they came to where you were?

A. From the time I saw them?

Q. From the time you first discovered them?

A. It was not long until they came up there.

Q. You were asleep, I believe, and you were wakened by the noise of the band playing? A. Yes.

Q. And you looked out and saw them? A. Yes.

Q. And then pretty soon they came down to where you were?

A. Yes, sir. They came to the mine first, and had to come through the ropes that were stretched around the mine, and then had to come around where I was up on a hill.

Q. Did you know a little girl named Johnson down there?

A. No, sir.

Q. Do you remember the incident of the little girl asking you about her cow, that she had gotten within the enclosure of the Bache-Denman people?

A. No, sir, I dont believe I do.

2043 Q. You dont remember? A. No.

Mr. Grant: That is all.

Witness Excused.

2044 ELLET T. GODDARD, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name. A. Ellet T. Goddard.

Q. In the spring of 1914 were you living in Ft. Smith?

A. Yes, sir.

Q. How long had you lived there prior to that?

A. About 35 years.

Q. Did you on or about the 4th or 5th of April, 1914, go down to Prairie Creek Mine No. 4 as a guard for the Bache-Denman Coal Company?

A. I went down there on the evening of the 4th.

Q. When did you leave there? A. On the 6th.

Q. At what time?

A. About four or five o'clock in the evening.

Q. Did you see any trouble, or were you in any trouble on that day?

A. No, I didnt see any of it.

Q. Where were you stationed that day?

A. At a slope, in a mule barn about half a mile from the tipple, southwest, I think it was.

Q. So that you did not see any of the trouble at the mine shaft? A. No.

Q. How old a man are you, Mr. Goddard?

A. I am 69 years old.

Mr. Hull: That is all.

Mr. Grant: No cross-examination.

Witness Excused.

2045 JAMES ANDERSON MURRAY, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name.

A. James Anderson Murray.

Q. Where do you live, Mr. Murray?

A. Near Clarksville, Johnson County, this State.

Q. How long have you lived there?

A. My entire life, with the exception of ten years spent in the West.

Q. What is your business now?

A. I am farming at the present time.

Q. Speak up, Mr. Murray, so that all these men here can hear you. A. I am farming at the present time.

Q. Did you, in the spring of 1914, go to work for the Bache-Denman Coal Company? A. At what date?

Q. In the spring of 1914? A. Yes, sir.

Q. Do you remember what date it was?

A. No, sir, I dont remember distinctly what date it was. but I think it was in April, along about the first of April.

Q. Now, do you remember the incident one day, on or about April 28th, when you were returning to Mine No. 4, with J. S. Moore? A. Yes, sir.

Q. State where you were and what happened, at that time?

A. I was out there prior to that time, before that time once before, but on that day me and Mr. Moore started from here to the mines and we were held up out there near the switch that leads to the mines by some men that were supposed to be union men.

Q. What did they do to you?

2046 A. They asked us where we were going and I mention my head toward the mine, in reply, and they told me,—told us that we were not going in there, that there was a bunch of scabs in there, "God dam scabs", I believe they called them. There was only about 17 of them in there at that time.

Q. Is that what they said to you? A. Yes, sir.

Q. Keep your voice up, Mr. Murray. I cannot hear you.

A. And that they were going to get up against it,—up against those 30 Winchester rifles they had in there, and that they were going to crucify them, and they would not let us in there, they turned us back to Midland, on the Frisco

tracks, and followed us quite a ways down the tracks from the crossing at the depot.

Q. Do you remember of being in Hartford on or about May 23rd, 1914, and hearing some remarks made by a man named Dan Wilcox? A. Yes.

Q. What did he say and where were you?

A. He said he was president of the union local at Adamson, Oklahoma, and he said they were going to march down there, or come down there to help the boys out at Prairie Creek and clean those boys out that was working there.

Q. Who did he say was going to march down and help them?

A. The union men of Oklahoma.

Q. What?

A. The union men, I should judge, of his local.

Q. From Oklahoma? A. Yes, sir.

Mr. Hull: That is all.

Cross-Examination

By Mr. Warrum:

Q. Did Dan Wilcox seemed to be drinking when you talked to him A. No, sir, I dont think he was.

2047 Q. Did you ever meet him before?

A. No, sir, not as I know of.

Q. Did you ever see him since?

A. No, sir, I havent.

Q. What were you doing in Hartford?

A. I went up there to get my mail and some groceries.

Mr. Warrum: I withdraw that question.

Q. What were you doing at Hartman? This was Hartman and not Hartford, was it? A. Yes, sir.

Q. What were you doing in Hartman?

A. I dont know anything about Hartman.

Q. Where did you meet Dan Wilcox?

A. In Hartman, a little town this side of Clarksville on the Iron Mountain.

Q. Do you know what Wilcox was doing there?

A. Down there on a visit to his father-in-law, Mr. Morris, a railroad foreman.

Q. That was April, 1914? A. Which?

Q. What date did you see Wilcox there?

A. I dont remember definitely what date it was.

Q. What month was it?

A. I think it was in April,—no, I will take that back, I think it was in May.

Q. Where were you working at that time? I dont mean at that particular moment, but was that during the time you were working at the Prairie Creek mine?

A. No, sir, I was not working there then.

Q. You had stopped work there then, had you?

A. Yes, sir, I had come home.

Q. Now you say on April 28th you were with J. S. Moore going from here to the mine and were held up at a switch?

A. Yes.

Q. By some men who you assumed were union men?

2048 A. Yes, sir. They were union men.

Q. And they said you were not going in there?

A. Yes, sir.

Q. And that they were going to go up against those Winchesters? A. Yes, sir.

Q. What Winchesters did they mean, the Winchesters the guards had? A. Yes, sir.

Q. Had you heard talk about that time of complaints in the neighborhood about the Winchesters that the guards were having at the mines?

A. No, sir, I dont think I had heard it before.

Q. Was that the first time you had heard a grievance down there against the mine guards being armed?

A. I had been there once before and worked a few days and then went back home, but I never was molested or bothered in any way.

Q. I asked you if that was the first time you heard in that neighborhood there was a grievance against the arming of the mine guards there?

A. I dont really grasp the meaning of your question.

Q. Did these men that spoke to you at the switch seem to be out of humor because the guards at the mine were armed with Winchesters? A. Yes, sir.

Q. Was that the first time you had heard anything about that, in the neighborhood? A. Yes, sir.

Q. Did they also complain of the conduct of the guards with reference to the people in that community?

A. No, sir, they didnt make no complaint about the guards.

Q. You have related then the conversation as fully as you remember it? A. Yes, sir.

2049 Mr. Warrum: That is all.

Redirect Examination

By Mr. Hull:

Q. What were you employed to do at the mine?

A. I was employed as engineer.

Witness Excused.

2050 GEORGE ALFRED DAVIS, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name. A. George Alfred Davis.

Q. Where do you live, Mr. Davis?

A. I live at Ft. Smith.

Q. Where are you working now?

A. I am picking cotton at Braden now.

Q. Were you employed by the Ft. Smith Folding Bed & Table Company? A. Yes, sir.

Q. In June, 1914, did you go to work for the Bache-Denman Coal Company? A. Yes, sir.

Q. At Mine No. 4? A. Yes, sir.

Q. What were you employed to do? A. Caging.

Q. What does that mean?

A. Putting coal on the caging down on the bottom.

Q. Now, coming down to the 17th day of July, the day of the battle, when the employes of the mine were run off, state what you were doing and what you saw that morning?

A. Well, I and my brother was standing in front of the office and they commenced shooting in that direction.

Q. What direction was that? Do you know where the school house was? A. Yes, sir.

Q. With reference to the school house what direction did the shooting come from?

A. Right from the school house,—from the direction of the school house, the first shooting.

Q. Where did you go?

A. I ran and got in behind a tree when the shooting commenced, and my brother ran right on off. He went off just as quick as the shooting commenced.

2051 Q. What did you do after that?

A. Well, I run, and run into the shop.

Q. What shop was that?

A. The blacksmith shop.

Q. Now, do not make me ask you a question every few seconds. State what you did from the time you went into the blacksmith shop, and what occurred?

A. I went into the blacksmith shop, and I went and got in behind the pump,—a water pump; and fixed me up a breast

work in there to keep the bullets from hitting me. The bullets was coming through the shop mighty near like hail, and there was a bullet hit the pump and fell down right by my face.

Q. Was that a lead or a steel bullet?

A. A steel bullet.

Q. State if you know when the employers left the mine?

A. Well, the biggest crowd left about 11:30, as well as I can remember.

Q. Did you go with them?

A. No, sir, I stayed in there.

Q. You stayed in the blacksmith shop, did you?

A. Yes, I stayed in the blacksmith shop.

Q. State what occurred after the employes left with reference to anyone coming into the blacksmith shop?

A. Well, it was about 1:30 when they came into the blacksmith shop.

Q. Who came in there?

A. There was seven men came into the blacksmith shop.

Q. Did they have guns?

A. Yes, sir, they had guns, Winchester shot guns.

Q. Had you ever seen any of them before?

A. I knowed one fellow's face, but I didnt know his name. He was well acquainted with my father, though.

Q. Where did he live?

A. He lived in Hartford.

2052 Q. Was he a miner? A. Yes, sir.

Q. Had he ever worked at No. 4 mine that you knew of? A. No, sir.

Q. He was not working there with you at the time the mine was running open shop? A. No, sir.

Q. Can you say then whether he was a union miner or not? A. Yes, sir.

Q. State what the seven men did?

A. Well, they came in there and they all threw their guns on me and told me to crawl out, and I crawled out and they told me to give them my gun, and I told them I didnt have any gun, and one of them said, "Yes, you have." I said, "No, I aint got any gun", and they asked me then where the rest of them was, and I told them I didnt know. They asked me which direction they went and I told them I couldnt tell; I was in the shop all the time. From the time I went in the shop I never seen nothing, you know.

Q. Did they make any proposition to you as to what they would do if you would tell them.

A. They told me to tell them where the rest of them was and they would not hurt me. They said, "We aint going to

hurt you. Tell us where the rest of them are at." And they asked me if some of them werent under the floor in the engine room, and I told them no, I didnt know anything about them, where they was. And they looked under the floor in the engine room and never found anybody.

Q. Did they say anything about killing you.

A. No, sir.

Q. What did they do then?

A. Well, one of the fellows [and] taken some waste out of the coal car,—out of the oil box in the coal car and brung that waste up there and handed it to me and handed
2053 me a match. That was in the wash house in the corner of the shop we were at that time, and he said, "You light that waste" and I started to strike the match and I broke the match off, and he didnt have any other match, and he asked one of the other fellows if they had a match and one of the fellows handed him a match and he said it was all the match he had. And he grabbed the waste out of my hands and said, "I will set it." And he struck the match and set the waste and piled some old pit clothes on the waste, and the shop went up, it burned up.

Q. Where did you go then?

A. They taken me on out and started over to the school house with me, and they told me not to run. They said, "Don't you run", and we walked on over to the school house and one of the fellows had hold of my arm. Directly after we started he taken hold of my arm, and as we got nearly to the railroad there was a union man shot.

Q. One of these seven men with you?

A. No, sir, there was another bunch north of there shot, and he shot this union man in the hand that had hold of my arm, shot him in the left hand. This union man was a light complected fellow, kind of sandy haired.

Q. Did he say anything about that shot?

A. Yes, sir, he said, "We ought to hit you." And then one of the fellows says,—one of the union men said, "I will take charge of that boy", and this fellow says, "No, I have got him." And we went on up to the school house then and I was awful thirsty and I told them I wanted a drink and they said, "Well, we will give you some water. We ought not to give you nothing."

Q. Whom did you meet up at the school house that you knew?

A. Charley Blackman was in the bunch up at the school house. He was all the one I knew.

2054 Q. Did you know who Charley Blackman was?

A. Yes, I knew him well.

Q. Was he a union miner? A. Yes, sir.
Q. Before you left the Mine No. 4 did you see any of these seven men climbing up on the tipple?
A. Yes, sir, I seen them climbing up on the tipple, and there was an old mattress on top of the tipple, an old mattress up there.
Q. Did you see them set fire to that mattress?
A. No, sir.

Mr. Warrum: Now, if the court please, these questions have been for some time rather leading.

The Court: Make your objection.

Mr. Warrum: We object to that for the reason it is leading and suggestive.

The Court: Objection is sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Hull: That is all.

Cross-Examination

By Mr. Warrum:
Q. Now, these seven men that came to the shop, one of them was a man whom your father knew at Hartford, is that right? A. Yes, sir.
Q. Did you know him?
A. No, sir, I just seen his face, I didn't know his name.
Q. Is your father living? A. No, sir.
Q. He is now dead, is he? A. Yes, sir.
Q. Did you ever ask your father who he was?
A. No, sir.
Q. You are unable to tell the court and jury who this man was? A. Yes, sir.
2055 Q. Or what his name was?
A. No, sir, I don't know his name.
Q. Can you identify him by any position he then held?
A. No, sir, I don't believe I could. I was nothing but a boy when my father was living.
Q. How old are you now? A. 24 years old.
Q. Now, was Charley Blackman one of the seven men that you spoke of? A. No, sir.
Q. Was he present when the men were climbing up the tipple? A. No, sir, I don't think he was.
Q. Who is Charley Blackman? Is he a Hartford man?
A. Yes, sir.
Q. He lived in Hartford at that time, did he?

A. Yes, sir.

Q. Where was he at the time you saw the men climbing up the tipple? A. He was over at the school house.

Q. He had not come over to the mine yet?

A. No, sir, there was a bunch stayed over at the school house.

Q. Now, while you were walking from the shop where these seven men found you over to the school house, one of the men that was with you was shot in the hand, isn't that right A. Yes, sir.

Q. Did you see the man who shot him?

A. No, sir, I didn't see him. We just heard the gun fire.

Q. Then you don't know who it was that shot him?

A. No, sir. I just judged it was a union man shooting in because he hollered at him.

Q. Were the guards doing any shooting that day at all?

A. The guards?

Q. You had guards there, did you? A. Yes, sir.

2056 Q. How many?

A. I don't know how many there was.

Q. And they had guns, didn't they? A. Yes, sir.

Q. Was there 12 or 15 guards?

A. Somewhere in that neighborhood, I think.

Q. And some of the others that were not guards had guns, too, did they not?

A. Yes, sir, everybody. They all run in the office and got guns.

Q. What time did the shooting begin?

A. Well, it began about eight o'clock.

Q. Eight o'clock in the morning was when you first heard it? A. Yes.

Q. And it was then they ran in and got guns, was it?

A. Yes.

Q. Then did they take different positions over the camp, behind the enclosure, or did they all get together, the guards and others? A. After they got guns?

Q. Yes, sir. A. Well, they all kind of scattered out.

Q. They scattered and took different positions?

A. Yes, sir.

Q. They were doing some shooting, were they not?

A. Yes, sir, there was some of them shooting. Of course some of them run off. I don't think some of them done any shooting at all. They were making their get-away.

Q. Some ran away at once, did they? A. Yes.

Q. And some remained and kept up the shooting themselves, is that right? A. Yes.

Mr. Warrum: That is all.

Redirect Examination

By Mr. Hull:

Q. From what direction did that shooting come, Mr. Davis?

2057 A. That shot the man through the hand?

Q. Yes.

A. It came from a north direction—from the mine.

Q. Where would that be? Toward what place, if you know any place? A. That would be toward Midland.

Q. How long before that had all of the employes left the mine? A. How long before that?

Q. How long before the man was shot in the hand had all of the employes left the mine, if you know?

A. It was about a half an hour or three quarters of an hour or something like that.

Mr. Hull: That is all.

Witness excused.

2058 J. CURTIS BOHANNAN, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. Mr. Bohannan, are you in pain with your hand?

A. No, sir.

Q. It is all right, is it? A. Yes, sir.

Q. What is your full name?

A. J. Curtis Bohannan, is my full name, my initials are J. C. Bohannan.

Q. Where do you live? A. Ft. Smith.

Q. Where are you working? A. In the box factory.

Q. In the spring of 1914 did you go to work for the Bache-Denman Coal Company? A. Did I work for them?

Q. Yes. A. Yes, sir.

Q. Who hired you?

A. Well, Mr. Finley first spoke to me about going down there to work.

Q. What were you to do down there? A. Mine guard.

Q. Who gave you your instructions?

A. John Shalen.

Q. What did he say to you?

A. He told me to watch about fire and one thing or another.

Q. Did he say anything about the use of guns?

A. About which?

Q. About the use of a gun?
A. No, sir, he never told me. He gave me a gun but never told me anything about using it.
Q. You went to the Midland station one day with Jackson and Epperson, didn't you? A. Yes, sir.
Q. Do you remember that day? A. Yes, sir.
Q. Do you remember when that was?
A. Not exactly, it has been so long ago I can't call
2059 just when it was to mind. It was sometime along in June, I think it was.
Q. In June, 1914? A. Yes, sir.
Q. State what occurred at the Midland station that day.
A. Well, do you mean the Midland station or Burma?
Q. This was at the Midland station?
A. We went there to get on the train to go home to Ft. Smith to see our folks, and a lot of fellows gathered up there and rocked us.
Q. They threw rocks at you?
A. Yes, sir, I don't know who they were, but there was a bunch of boys around the depot to get on the train and they rocked us.
Q. What did they say to you?
A. They cussed us and abused us around.
Q. Did they call you any names?
A. "Dam scabs" or something like that.
Q. Were you struck by a rock?
A. Yes, sir, a rock struck me up here (indicating) as I went to get on the train.
Q. Do you remember some trouble you had at the Burma station?
A. Yes, sir, one evening I went to get on the train.
Q. What month was that?
A. The last of June or the first of July.
Q. How far was Burma from Mine No. 4?
A. About a mile apart, I guess they are.
Q. Why did you go to get on the train at Burma?
A. There was trouble if we went to get on the train at the other place, and we thought we would go down to that station and not have any trouble if we could possibly get around it, and we walked off down the railroad from the station to wait for the train, and we were there for a half an hour or more, and we sat on the road talking, and they began
to bunch up at the depot and I said, "Boys, we will
2060 have to get away from here, they ain't going to let us get on the train," And about that time they hollered out, "Go after them." There was a whole bunch of them,

about 100 or 150 yards away, and there was a bunch of them hollering at us and abusing us and we lit out.

Q. Do you remember, during the month of June, while you were guarding there, seeing one of the parties passing by there a good many times, going back and forth, with a gun, a union man? A. Oh, yes, they were passing daily.

Q. Was there one man whom you knew?

A. I could not say, I could not call to mind. I was not acquainted much down there, I could not say yes. There was one man in particular I noticed that I knew, that was Clint Burris. I knew him.

Q. State what he did?

A. He just passed along and every once in a while I was at the pump station guarding that, he would pass by going up the hill there, and he had a gun in his hand, but he didn't say nothing, and no one said nothing.

Q. Did that happen once or frequently? A. What?

Q. Did that happen once or frequently?

A. Several times while I was guarding at that place he passed, but he never said anything.

Mr. Hull: That is all.

Mr. Warrum: No questions.

Witness excused.

2061 WILLIAM THOMAS WHITE, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your name? A. William Thomas White.

Q. Where do you live now, Mr. White? A. At Bache.

Q. Where did you live in 1914? A. In Montreal.

Q. Do you know how far Montreal is from Prairie Creek Mine No. 4?

A. It is something like five or six miles.

Q. What were you doing? What was your business in the spring of 1914?

A. I had a little coal mine and store.

Q. Right there at Montreal? A. Yes, sir.

Q. Mr. White, I will ask you if you remember being in Hartford, Arkansas, one day when deputy marshal Holt was in town and of hearing some remarks made about him?

A. Yes.

Q. State the circumstance and what was said?

A. I was sitting on the street that runs east and west, on the east side of the street, and marshal Holt came down on that side of the street and crossed over and went back on the east side, and while I was sitting there Will McLachlan came along.—

Q. (interrupting). Who was he?

A. Board Member of the mine workers. He came along with two or three men and he said, Let us get him, boys". Holt was walking on the west side of the west side of the street and they was walking on the east side and were looking across the street at him.

Q. Do you know what Holt was doing in town that day?

A. He was summoning witnesses for that injunction suit, I think was his business.

2062 Q. That is the United States Marshal James Holt?

A. Yes, sir.

Q. Do you remember one night when some employes of Mine No. 4 came to the Montreal station to take the train to Ft. Smith? A. Yes, sir.

Q. State what occurred, and what you saw at that time?

A. They came there and was waiting for the train. I was sitting out on the front porch about 50 or 75 feet from the station, and there was a bunch of fellows sitting near the building across, and one said, "There is some of them No. 4 fellows, what are they doing here? I don't know as they have any business here." Then one fellow said, "I don't know whether they have any business here or not."

Q. Did you know anybody in that crowd?

A. Wiley Robinson and Bill Robinson and Charley Evans.

Q. Did you know what Bill Robinson's business was?

A. He was working in the mine.

Q. Was he a union man? A. Yes.

Q. Were the other men with him union men?

A. Yes, sir.

Q. Did you hear Wiley Robinson say anything to the employes?

A. Yes, sir, they went out to them and asked them, could they get on the train there. They seemed to be friends with them, and they told them, no, they could not get on the train, it didn't stop. And they said, "Can you flag it?" And they said, "Sometimes you can flag it, but it would be best to go to the crossing."

Q. Where was the crossing, between Montreal and Ft. Smith?

A. Yes, sir, the crossing was some 200 or 300 yards north of the station. And they talked them into the notion
2063 of going down there to the crossing, and they went.

Q. When the train came in, did you see Wiley Robinson do anything?

A. Yes, he jumped up on the engine when the train stopped at the station.

Q. Did he have some conversation with the engineer?

A. Yes, sir, but I don't know what it was. I suppose,—

Q. (interrupting). Never mind what you suppose, you cannot tell that. You say the crowd of the employes of the mine went down to the crossing?

A. They went after the train, throwing sticks and rocks.

Q. The employes of the mine, did they go down to the crossing? A. Yes, sir, they went down that way.

Q. Did the train stop at the crossing? A. Yes.

Q. What, if anything, did the crowd in which Wiley Robinson was do?

A. They followed after the train and threw rocks and hollered at the men.

Q. Did the employes get on the train?

A. I suppose they did, I didn't see them any more. Someone said they got on the train. The train stopped at the crossing.

Q. Do you remember the date of April 6th, when they had a riot at Mine No. 4? A. Yes.

Q. Did you have some conversation with Bill Robinson that day?

A. He came there in front of my place and said they had been at No. 4 and killed Looper and I said, "If I had been out with a crowd and killed anybody, I would keep it to myself."

2064 Q. Did you know who Bill Robinson was?

A. A young fellow that lived in Montreal.

Q. Was he a union miner? A. Yes, sir.

Q. How long had you been in business in Montreal, Mr. White?

A. I had been there about two and one-half years, I think, something like that.

Q. Were you there running a pigeon hole? A. Yes, sir.

Q. Were you running that under union conditions?

A. Yes, sir, I had a contract with the miners.

Q. Do you know, Mr. White, of any incidents of employees of Mine No. 4, and so-called scabs coming up to your store and dealing with your wife and daughter and yourself?

A. It was not my daughter, but my cousin.

Q. A woman? A. Yes, sir, a young lady.

Q. Did you know of any instances of their coming up there and acting in any way except as gentlemen?

A. No, sir, they came there in order to get on the train and they would stop in there and get soda pop and tobacco and I never know of them doing or hearing of them doing anything but what was all right.

Q. So far as you know had these scabs intimidated that whole country down there?

Mr. Warrum: We object to that as asking for the conclusion on the part of this witness.

The Court: The objection is sustained.

To which ruling of the Court, the plaintiffs, and each of them, then and there duly excepted and still except.

Q. Do you know of any instances, Mr. White, of the scabs having created any disorder?

2065 A. Not that I know of. They never did in my presence.

Q. Did you, during that same period—during those few months preceding July 17th, 1914, or at some time during that period, receive a letter, a threatening letter?

A. Yes, sir.

Q. Have you that letter with you? A. Yes, sir.

Mr. Neal: If your Honor please, we do not think a letter received by this man, who is not a party to or interested in this suit, would be competent, unless it is followed up by proof that it was for the purpose of intimidating him as a witness in this case.

Mr. Hull: I am not going to offer it now, but just have it identified. I will follow it up by proof.

The Court: The Court assumes it is just a foundation question.

Mr. Hull: I am just identifying it.

The Court: The objection is overruled.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted and still except.

Q. I will ask you, Mr. White—

Mr. Hull: I will first have this letter marked Plaintiffs Exhibit No. 44 for identification.

Q. Will you state, Mr. White, how you came to get that letter?

A. Joe Briggs brought it and gave it to me.
Q. Who was Joe Briggs?
A. A fellow that had been working for me and had been off for a few days for some cause or other, I do not recollect why right now.
Q. Is that J. L. Briggs?
A. Yes, I suppose it is J. L. Briggs.
2066 Q. Do you know whether he had been at times preceding the receipt of this letter, a union miner?
A. No, I don't know that he was at that time. I know afterwards they told me he drew aid from that local at Midland.
Q. Do you know whether previous to that time he had been a union [mine]?
A. Yes, he had been. I had known him for several years. I don't know whether he was just at that time or not.
Q. That letter is dated April 19th, 1914? A. Yes.
Q. Can you state whether or not you received that letter on or about that date? A. I think it was on the 20th.
Q. Did you keep that letter since that time yourself?
A. Yes.
Q. In your own keeping, was it? A. Yes, sir.

Mr. Hull: That is all.

Cross-Examination.

By Mr. Warrum:
Q. You say you never heard of scabs doing anything out of the way? When I use the word "scabs" it is because counsel for plaintiffs have spoken of them in that manner in the direct examination. A. No, sir.
Q. You never heard of these non-union men doing anything out of the way?
A. Yes, sir, I have heard of it, but I have never seen it.
Q. Now, so far as you know, they did not create any disturbance or disorder or do anything unseemly?
A. They never did about my place. They came there
2067 to my place frequently and stopped there and got on the train and they was mighty quiet around there.
Q. You could hear talk about them?
A. Yes, sir, I heard talk about them all the time.
Q. Where is this town you live in with reference to Prairie Creek?
A. Two miles north of Midland, about two miles on the Frisco.

The Court: Where is Midland with reference to Prairie Creek?

Mr. Warrum: I would like to know myself.

Q. You say it is on the Frisco? A. Yes, sir.
Q. Does the Frisco run through Prairie Creek?
A. No, sir.
Q. Does it run through Hartford? A. No, sir.
Q. It runs through Midland?
A. Yes, sir, they have a station at Midland.
Q. And also through your town? A. Yes, sir.
Q. In what direction from Prairie Creek does Midland lie?
A. Midland is due north from Prairie Creek.
Q. How far?
A. Something like three or four miles, I don't know just exactly how far.
Q. And your town is on a continuation of the Frisco line?
A. Yes, sir.
Q. How far from Midland? A. About two miles.
Q. How far is Huntington from Prairie Creek?
A. Three or four miles east of Prairie Creek.
Q. What road runs through Huntington?
A. The Frisco.
Q. Does the Midland also run through Huntingon?
A. No, sir.
Q. How large is your place? I mean your town?
2068 A. Montreal?
Q. Yes, Montreal?
A. There is something like ten or fifteen families there.
Q. How large is Midland? A. It is just a small place.
Q. Is it a larger village than yours? A. Yes.
Q. How large is Huntington, approximately?
Q. Is it a larger village than yours? A. Yes.
Q. How large is Huntington, approximately?
A. Huntington is quite a bit larger than Midland.
Q. Has it 2000 people?
A. I don't know, just what, I suppose there was 1500 or 2000 in Huntington.
Q. How many in Hartford?
A. Well, I don't know, there is more people in Hartford than in Huntington.
Q. Are there 4000 in Hartford?
A. I don't think there is that many, there might be.
Q. Did you ever hear these rumors when you were at Midland about the conduct of the guards during this period, when you happened to be in Midland?
A. Yes, I have heard all kinds of things.
Q. But you never saw anything at Midland? A. No, sir.
Q. Was the rumors you heard with reference to the guards only or with reference to the guards and the non-union men?

A. It was generally all around, it was one just as much as the other. They had it in for them and they had to say something about them all the time to show there was an enmity between them.

Q. The people in the community circulated the rumors, they had it in for the guards and non-union men?

A. Yes, they had it in for anybody that did not take sides with them. If you sat down and didn't say anything and didn't take sides with either they had it in for you.

2069 Q. Was that feeling pretty general among the citizens of the community? A. Yes, it seemed it was.

Q. And there was a good deal of feeling against you, was there, Mr. White?

A. Yes, it seemed they had it against me because I didn't take sides with them. If you didn't take sides you were against them. That is the way I looked at it.

Q. Did you hear complaints from citizens around there about the guards insulting women and girls? A. No, sir.

Q. Or about shooting up the community?

A. Yes, sir, I heard that, but they never made me believe it.

Q. I am not asking you about the truth of it, but about the rumors you heard. A. Yes, I heard it.

Q. There was a whole lot of excitement about it?

A. No, not any more than about other things.

Q. Was there a good deal of feeling expressed?

A. Yes, sir, there was always an expression of feeling. It was a constant thing.

Q. When you speak of the miners you understand that they have a local union and a district organization; you know that? A. Yes.

Q. And when you speak of McLachlan as a board member, do you mean a member of the national organization or of District 21? A. Of District 21.

Q. Will McLachlan, is it? A. Yes, sir.

Q. Where was it that you heard him make this expression with reference to this marshal Holt "let's get him"?

2070 A. It was on the street at Hartford, somewhere along about West's drug store. I don't know just the place.

Q. That was in Hartford, was it? A. Yes, sir.

Q. Will you tell us the time as near as you can when that happened? A. No, sir, I don't remember the day.

Q. Was it in April, you think?

A. I think it was. I know Holt summoned Slankard to the court. He found Slankard up in front of the bank. I was watching them.

Q. Was it McLachlen or someone else that said "Let's get him"? A. McLachlan.
Q. Did they follow the marshal?
A. The marshal was on the west side of the street and they were on the east side, across the street looking at the [marshall].
Q. Did you hear anything else said on that occasion?
A. No, sir. They passed along by me. I was sitting down.
Q. Sitting down on your porch?
A. No, sir, I was sitting down—
Q. (Interrupting) In a chair?
A. No, on a door step, or something like that, I don't remember just what it was.
Q. Had you heard anything said before that remark was made? A. No, sir.
Q. Or did you hear anything said after that? A. No, sir.
Q. That is all you heard? A. Yes, sir.
Q. And Holt was on the other side of the street and McLachlan and the men with him were on the side you were sitting on? A. Yes, sir.
Q. Were there other people on the street? A. Yes, sir.
Q. How wide is that street?
A. I suppose fifty feet wide.
Q. How many people were on the street, at that time, across on the other side? A. I don't know how many.

2071 Mr. Warrum: That is all.

Redirect Examination

By Mr. Hull:
Q. Mr White, you have been asked about complaints you heard about the conduct of the guards. Did you hear any complaints or did you have any complaints against the union men? A. No, sir, I didn't have any.
Q. Didn't you have any trouble with the union men at that time, during that period?

Mr. Warrum: If the Court please, the defendants severally object to that question as leading and suggestive.

The Court: Yes, I think it is. The objection is sustained.

To which ruling of the Court, the plaintiffs, and each of them, then and there duly excepted and still except.
Q. In the conduct of your mine, Mr. White, were you interfered with at all?
A. Yes, sir, they would stop me and then I would start and they would stop me again and the men would work a few days

and then lay off a few days. It seems that they were confused or didn't know what to do or didnt' want to do.

Q. Within the last few days, Mr. White, did someone speak to you at Bache, Arkansas? A. Yes, sir.

Q. About your coming here to testify? A. Yes, sir.

Q. Who was that man? A. Charlie Hart.

Q. Do you know whether he is a union man? A. Yes, sir.

Q. What did he say to you?

A. He said, I didn't have to recollect these things I heard.

Q. What did you say to him?

2072 A. I told him I was not that forgetful, or something like that, that I would forget everything I ever heard.

Q. Did he know you were subpoenaed to be a witness in this case? A. Yes, sir.

Mr. Hull: That is all.

Recross Examination

By Mr. Warrum:

Q. Who is Charlie Hart?

A. Charlie Hart is his name, is all I know.

Q. Where does he live? A. At Bache.

Q. Where is Bache located?

A. Bache is in Scott County, Arkansas.

Q. How far from Hartford?

A. Well, it is about ten or twelve miles across the mountain, but around the railroad it must be forty or fifty miles, or thirty or something like that, I don't just know just how far it is.

Q. Do you know how many union mine workers there are in the State of Arkansas? A. No, sir.

Q. You have no idea? And cannot approximate it?

A. No, sir.

Q. How long did you work your mine as a union mine?

A. I worked it,—well, I was there about three years, and I worked it union most of the time.

Q. I didn't get the number of years?

A. About three years.

Q. How many men did you employ?

A. About eight or ten.

Mr. Warrum: That is all.

(Witness excused.)

The Court: At this point we will adjourn until 2:00 o'clock this afternoon.

2073 Fort Smith, Arkansas.

Thursday, November 1, 1917. 2:00 o'clock.

Court met pursuant to adjournment, parties appearing as before and the following proceedings were had:

Mr. Drinker: If the Court please, we offer the deposition of William Saunders, taken at Coal Creek, Tennessee, on the 29th and 30th of March; counsel Mr. Drinker and Mr. Covington. (Reading.)

"WILLIAM SAUNDERS, being duly sworn deposed as follows:

Q. What is your full name?
A. William Calvin Saunders.
Q. How old are you? A. 27 on the 3rd day of this month.
Q. Where do you live? A. Briceville, Tennessee.
Q. Where were you living in the spring of 1914?
A. Briceville, Tennessee.
Q. Did you go from Briceville to Fort Smith at that time?
A. To Prairie Creek.
Q. How did you happen to go from Briceville to Prairie Creek? A. Fellow come and took up transportation.
Q. You know who he was? A. Know he told us.
Q. Was it Eustis? A. No, sir.
Q. You don't know what the name is?
A. I saw him there again.
Q. Hackett? A. Yes, sir.
Q. How many went with you?
A. Pretty good bunch of us, Dougherty, Andrew Dougherty, and old man Johnson, Sam McKamey , and another Johnson boy, old man Johnson's boy, John Martin, I reckon that was all.
Q. What reason did they give for asking you to go to Prairie Creek, what did they want you to go there for?
2074 A. To work.
Q. Pay your fare? A. Yes, sir.
Q. When did you get to Prairie Creek?
A. I started on—I got there on Friday night before the 17th of July.
Q. How long were you at Prairie Creek before the 17th?
A. From Friday night until Friday morning.
Q. A week? A. Yes, a week.
. Got there on the 10th, got there one week before the 17th?
A. Yes, sir.
Q. Where did you go when you got to Prairie Creek?

A. Went to the camps.
Q. What place you live there? A. Called it No. 3.
Q. What was the condition of the camp at that time, how many men there? A. Pretty good bunch.
Q. How many, do you know?
A. I don't know exactly, never counted them.
Q. About how many?
A. Up toward ninety or one hundred.
Q. Was the camp enclosed or any fence around it?
A. The camp where I was, no fence that I know of.
Q. What did you do when you got there? A. Drove.
Q. Drove what? A. A mule in the mine.
Q. How long did you keep on doing that?
A. Three shifts and a half.
Q. How long did it take to do a shift?
A. Eight hours.
Q. See any trouble of any kind around before the 16th?
A. No, sir.
Q. What happened on the 16th?
A. Began to shoot toward what they called No. 3 tipple.
Q. What time? A. In the morning.
2075 Q. Day before Friday anything happen?
A. No, sir.
Q. On the night of the 16th? A. No, sir.
Q. Where were you? A. In the bed asleep.
Q. What time did you wake up? A. 6:30.
Q. What woke you up? A. Wake myself up.
Q. What happened after breakfast?
A. They went to shooting.
Q. Who? A. Don't know.
Q. You know if it was the men in the camp or somebody outside of the camp.
A. Some men down there, some guards guarding down there and a bunch of men after them and shooting both at one time.
Q. How did you happen to see that?
A. Heard the report of the gun.
Q. Know who was shooting when you heard the report of the gun?
A. Yes, sir.
Q. What did you do? A. Broke to run.
Q. Where did you go? A. Across the hill.
Q. About how far did you go?
A. 150 or 200 yards.
Q. What time was it then?
A. 7:30 or 8 o'clock.
Q. Were did you go then?

A. Stayed in the cliff about one hour or hour and a half,
Q. Who was with you? A. My wife is all.
Q. See any other people there?
A. Didn't see any guns fired.
Q. See any people from where you were? A. No, sir.
Q. See any at all? A. No, sir.
Q. Didn't you look around from where you was?
A. Didn't see any at all.
Q. Didn't see any guns? A. No, sir.
Q. When was the first time you saw any?
A. When I went away from the cliff across the pub-
2076 lic road and went to a little field to a house.
Q. What did you see there?
A. Saw two men standing there in the yard.
Q. When you were in the cliff did you look around over the country at all? A. Yes, sir.
Q. See any smoke?
A. Yes, back over toward the camp from there.
Q. You know where No. 3 tipple was?
A. No, sir, not down there.
Q. Know where it was from where you were, could you see it? A. No, sir.
Q. Could you see it? A. No, sir.
Q. See smoke from that direction? A. Yes, sir.
Q. See any men? A. No, sir.
Q. Didn't see any men around there at all?
A. No, sir.
Q. When you went down there and saw the two men in the road, know who they were?
A. Didn't see them in the road, saw them at the house.
Q. Did you have any talk with them? A. Yes, sir.
Q. Who were they? A. Don't know.
Q. Any other men join them?
A. Two fellows come up after stood there a minute or two.
Q. Two fellows you saw have guns with them?
A. No, sir.
Q. Other two have guns? A. Yes, sir.
Q. You know them? A. No, sir.
Q. Say anything to you?
A. Asked what I was doing there.
Q. What you say?
A. Been over there on tramp.
Q. Tell what else they said to you if anything?
A. About all they said, I asked them how to get to Mansfield.

Q. Did they ask you anything about what was go-
2077 ing at the camp?
A. How it was fixed for fighting.
Q. [Qho]? A. Company, I reckon what they meant.
Q. What did you tell them?
A. I didn't say anything and asked me again if they had any guns and what kind.
Q. What did you say?
A. Had some thirty thirtys over there.
Q. What else did they ask you?
A. Asked if they had any pits dug.
Q. What did you tell them?
A. Not that I know of.
Q. Then what did you do?
A. Went to Mansfield.
Q. Walk you and your wife? A. Yes, sir.
Q. Your wife in Briceville now?
A. Not as I know of.
Q. Know where she is? A. No, sir.
Q. How long has she been gone from Briceville?
A. About 18 months.
Q. When you were going to Mansfield, see any men?
A. I met two fellows in the road I know and two fellows one named Brown, other fellow I don't know.
Q. They have guns? A. No, sir.
Q. They been working for the company while you were there? A. Yes, sir.
Q. Where did you go with them? A. Mansfield.
Q. From there? A. To Fort Smith.
Q. Then where did you go? A. Home, To Jamestown.
Q. Then where did you go? A. Blackwell.
Q. Hear any shooting that morning while you were in the cliff? A. Yes, sir.
Q. Much or little? A. Right smart.
Q. How many shots were fired, about?
A. Never counted them.
2078 Q. One hundred or one thousand.
A. Couldn't tell, good many shots.
Q. Nearer one thousand than one hundred?
A. Couldn't tell, good many is all I could tell you.
Q. Why did you hide in the [clift]? A. Scared.
Q. What of? A. Scared I might get killed.
Q. Who would kill you?
A. Fellows that done the shooting.
Q. In the camp or outside?
A. All shooting down there and I was scared a stray ball might hit me.

Q. Whose guns?
A. All I reckon, the guards as well as the rest of them.
Q. Anybody shooting at the guards? A. Yes, sir.
Q. From where was the shooting coming, from outside the camp? A. What they called No. 3.
Q. See any shooting outside from No. 3?
A. Some towards there.
Q. Saw the guns going off? A. Smoke from them.
Q. See many men? A. Two guards and more after that.
Q. How many after that?
A. Pretty good bunch, didn't stop to count them.
Q. You saw a smoke from their guns? A. Yes, sir.
Q. See any smoke from any buildings?
A. After we come to clift saw smoke, didn't see buildings.
Q. What direction? A. No. 3.
Q. You know if it was from No. 3 or some place around No. 3? A. Couldn't say.
Q. What is your best judgment?
A. Couldn't say without seeing it.
Q. Couldn't be sure? A. No, sir.
2079 When this smoke was coming from the general direction where No. 3 was, see any men between there and where you were?
A. The men was this side before we saw the smoke.
Q. What men? A. Those men after the guards."

Mr. Grant (reading):

"Cross-Examination

By Mr. Webb Covington:
Q. You say Mr. Hackett paid for your transportation when you went to Prairie Creek, Ark? A. Yes, sir.
Q. This man Hackett who is here today as a witness in the case?
A. Here, I don't know if he is a witness or not.
Q. Is that the Mr. Hackett you had reference to when you said a Mr. Hackett paid your transporation from Briceville to Prairie Creek, Ark? (Pointing to a man).
A. Looks like the man.
Q. Is it the man?
A. I would not swear positive when I am not certain.
Q. That the man you saw this morning? A. Yes, sir.
Q. That the man you take to be the man that paid your fare? A. Yes, sir.
Q. Did he go back with you? A. Yes, sir.
Q. To Prairie Creek? A. Yes, sir.

Q. Saw him after you got back there?
A. Next morning.
Q. What did he tell you when he asked you to go to Prairie Creek, Ark?
A. Didn't ask me to go, fellow by the name of Johnson asked me to go and [asid] the country is all right.
Q. Who is Johnson?
A. J. J. Johnson the way he signs his name.
Q. Is he a preacher? A. Yes, sir.
Q. He live in this county now? A. No, sir.
2080 Q. You know where he is? A. No, sir.
Q. You have any talk with this man Hackett you identify at all about the matter?
A. I believe he said everything was all right, I would not say for certain, he did I believe, I would not be positive.
Q. What did he tell you?
A. I think he told me it was all right.
Q. At least he didn't tell you they had trouble and wanted you to go and take the place of striking miners?
A. No, sir.
Q. And Johnson didn't. A. No, sir.
Q. And he is a preacher?
A. That's what they say he is.
Q. What corporation were you working for at Prairie Creek, Ark?
A. I don't know, the Bache and Denman Coal Co.
Q. Who paid you for your work?
A. Well we didn't have any pay day while I was there, when the fight come up I went to [headuuarters] and they give me $10.00.
Q. What he[illegible]rters? A. Fort Smith.
Q. What did they we you?
A. $9.00 and something, give you $10.00 to pay my expense while I was in there.
Q. Give you more money than they owed you?
A. Yes, sir.
Q. You come back to Tennessee? A. Yes, sir.
Q. How long before you returned to this place after you say you left Prairie Creek?
A. Nearly a month before I got back.
Q. You wife come back with you? A. Yes, sir.
Q. How long have you lived in this section of the State of Tennessee? A. 27 years.
Q. Born and reared here? A. Yes, sir.
2081 Q. You stated in your examination in chief when you went back in the bluff you didn't see anything?
A. No, sir.

Q. Impossible to see anything about the mines, wasn't it?

A. Yes, where I hid I couldn't see.

Q. You see the guards begin to fire down there?

A. I wouldn't say which one fired first.

Q. Mr. Saunders, had a perfect arsenal about that mine, had an office filled with high power guns?

A. Had some there.

Q. Bache Denman as you call it?

A. Guns in the camp.

Q. How many guards they have there?

A. I don't know that.

Q. Did you get acquainted with Jim Price a guard at the mines where you were working, who was sent to the penitentiary from Franklin County, Arkansas, for shooting a man in the back?

A. No, sir.

Q. You get acquainted with another guard at the mines where you were working named Dan Desentis who was sent from Judge Ustus Court in Franklin County, Ark., to the penitentiary? A. No, sir, did not.

Q. How many days did you work?

A. Three shifts and a half.

Q. You stated a moment ago that when you left camp No. 3 on the morning of the 17th you went to a bluff and that afterwards you went down to a farm house?

A. I lived in [whast] was called No. 3.

Q. And when you left the farm house you stated that two men were standing in the road?

A. Yes, sir.

Q. Did you know either one of them?

A. No, sir.

2082 Q. Were you acquainted with John Bumpus?

A. No, sir.

Q. Now what time was it in the morning that you went down to this farm house?

A. About nine or nine thirty when I went to the house.

Q. From that house could you see the tipple of the mine at which you had been working? A. No, sir.

Q. Couldn't see it? A. No, sir.

Q. Then after you left camp No. 3 that morning you didn't see anything or anybody in that valley where you had been working, in that particular mine?

A. No, sir.

Q. Now tipple No. 3, referred to by you, how far did it stand from where you had been working at the time?

A. About 300 yards up on a hill from where I was, little raise.
Q. South?
A. I can't tell that, mines down here and camp up here.
Q. Didn't get acquainted with the directions?
A. No, sir.
Q. What time did you leave the farm house?
A. Didn't stay there but a very few minutes.
Q. Went on to Mansfield? A. Yes, sir.
Q. And took the train from there to Fort Smith.
A. No, sir, walked it.
Q. Walked into Fort Smith? A. Yes, sir.
Q. How many guards did you see when the shooting begun? A. Two.
Q. Where were they?
A. Toward No. 3 tip, or what they called No. 3 tipple.
Q. Who were they?
A. Said one was a fellow by the name of Dunlap.
2083 Q. Harry Dunlap? A. Yes, sir.
Q. Know him? A. When I seed him.
Q. Who was the other one? A. I don't know.
Q. Did you watch them while they were shooting?
A. No, sir, I broke to run.
Q. All you know, those guards were down there and they were shooting?
A. The fellows after them shooting at them and they were shooting back.
Q. How could you tell they were shooting back?
A. I could see the guns pointed this way and some back the other way.
Q. Why do you say, shooting at them and they were shooting back? A. Don't understand you.
Q. Don't you know they were shooting at the other fellows and the other fellows were shooting back?
A. Guns were pointed toward each other.
Q. You see the guns of the other fellow pointed toward them?
A. Yes, got close when I broke to run.
Q. Together? A. Close to me.
Q. How close?
A. One hundred to one hundred and fifty yards, something like that.
Q. How far is camp No. 3 from the mine you worked at?
A. About 300 yards.
Q. You didn't meet any one you know? A. No, sir.

Q. You met nobody on the road to Mansfield?
Q. Yes, I met a whole lot of people, but I didn't know them?
Q. I thought you said you didn't meet anybody but Brown?
A. I over took Brown and we got together.
2084 Q. Where did you get together?
A. Somewhere between that place and Mansfield.
Q. Brown go with you into Mansfield? A. Yes, sir.
Q. Was his wife with him? A. Yes, sir.
Q. Who else was with Brown?
A. Other man and his wife, or another man and a woman, I don't know whether it was his wife.
Q. You know the man's name? A. No, sir.
Q. When you reached Mansfield did they have any kind of gathering there that day?
A. Some kind of a picnic, I think, at the right of the depot as you come in.
Q. Didn't see anybody with guns that day except the parties you spoke of? A. No, sir.
Q. Did Brown go over in Fort Smith with you?
A. No, sir, his wife, or the woman with him, give out and he stopped over or something until next day. After we left Mansfield me and my wife went by ourselves.
Q. Did your wife go to Mansfield with you?
A. Yes, sir.
Q. Who was superintendent of the mines, you know?
A. Couldn't tell you that.
Q. Don't know? A. No, sir.
Q. Where do you live now? A. Briceville.
Q. How far is that from here? A. Four miles.
Q. Are you going back home from here? A. Yes, sir.
Q. What is the county seat of this county?
A. Anderson County.
Q. What town? A. Clinton.
Q. How far is it to Clinton?
A. Ten mile, I think, from Coal Creek here.
2085 Q. Who is the prosecuting attorney for your district here?
A. I don't know, never in law in my life."

Mr. Drinker (reading):

"Redirect Examination

By Mr. Drinker:
Q. Did you ever hear Mr. Johnson preach?
A. Yes, sir.

Q. Where? A. At Briceville.
Q. How many guns were there at the house where you were? A. One.
Q. How many? A. Johnson had one there.
Q. You have a gun? A. No, sir.
Q. How many others were in the house with you?
A. Me and Johnson and his boy and Sam McKamey, English Dougherty and Andrew Dougherty.
Q. Did either of the Doughertys have a gun?
A. Might have. Didn't have a gun—don't know anything about the time they were guards.
Q. Saw some people on the way to Mansfield, you recognize any of them? A. No, sir.
Q. Any of them have guns?
A. Met two fellows in a buggy that had one gun.
Q. What happened when you met them?
A. When I met them a fellow said, "hello old Brown."
Q. Then what happened?
A. Brown said, "howdy". Me and my wife walked on and Brown started and the fellow in the right hand side of the buggy pulled a gun out of a sack and shot back over the buggy.
Q. What direction? A. Toward us.
Q. Where was Brown from you at that time?
A. In behind me when he fired.
2086 Q. What did you do?
A. Broke and run and run about 25 to 30 steps.
Q. What did the fellows in the buggy do?
A. Nothing, went off.
Q. How many shots fire? A. Three.
Q. What did Brown do? A. Run.
Q. What wife do? A. Run too.
Q. Which one stopped running first?
A. Can't tell, running when went in the barn."

Mr. Neal (reading):

"Recross Examination

By Mr. Covington:
Q. Were you subpoenaed to come here today to testify?
A. No, sir.
Q. Who instructed you to report here at this particular time?
A. He just told me to come down.
Q. Who.
A. Fellow by the name of Curtis.
Q. What is his given name?

A. I don't know that.
Q. When did you first see him?
A. One day last week, I disremember what day it was.
Q. Ever see him before? A. No, sir.
Q. Is he the fellow around the hotel here, that was in here?
A. Was in but don't know if he was when you came in or not.
Q. What did he pay you to come here to testify?
A. An average day's work.
Q. Who are you working for?
A. Knoxville Iron Company. Cross Mountain Coal Company.
Q. They run open shop? A. Yes, sir.
Q. Who is the superintendent? A. P. F. Lynch.
Q. Was Lynch out at Prairie Creek with you?
2087 A. No, sir.
Q. Is he here now at a witness in this case?
A. No, sir, not that I know of.
Q. You have to get permission from Mr. Lynch or any one in authority in your mine before you can get away for a day? A. No, sir.
Q. [Wuit] when you get ready? A. Yes, sir.
Q. You talk to Lynch about coming down here today?
A. No, sir."

Mr. Drinker: I don't care about the rest of the redirect.

Mr. Neal: We waive the rest of the Recross.

2088 W. T. FORRESTER, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. McDonough:
Q. Your name is W. F. Forrester? A. W. T.
Q. W. T. Forrester? A. Yes, sir.
Q. Where do you live, Mr. Forrester?
A. I live at Hannah, Oklahoma.
Q. What business are you engaged in?
A. Hardware and furniture.
Q. Did you live at Hartford, Arkansas, in 1914?
A. Yes, sir.
Q. In what business were you engaged in there?
A. Hardware and furniture.
Q. How long had you done business at Hartford?

A. Well, I had been in the Hardware business about three years.

Q. Were you in business there on July 17th, the day that the Bache-Denman mines were burned and blown up?

A. Yes, sir.

Q. You were in the hardware business on that day, were you? A. Yes, sir.

Q. State whether or not you sold any ammunition that day?

A. Well, I dont know that I can say just now that I did, but I suppose I did. I sold a little most every day. I was in the business.

Q. Did you get information of a difficulty that was going over at Prairie Creek that morning?

A. I did, yes, sir.

Q. What time did you get that information?

A. Well, I couldnt say, some time after seven though.

2089 Q. Was it after that that you sold the ammunition?

A. Well, if I sold any on that day it was.

Q. You testified in the contempt proceedings, did you not?

A. Yes, sir.

Q. Did you not say, for the purpose of refreshing your memory, did you not say that you did sell ammunition on that day, and sold out all you had, which was not very much?

A. I couldn't say that. No, sir. I sold, I expect, some ammunition, but who it was to I dont know.

Mr. Neal: We object to the answer, and ask that it be stricken out, because the witness dont seem to know whether he sold any or not.

The Court: That is the purpose of the question, he is trying to refresh his memory. He is asking if he did not so testify, for the purpose of refreshing his recollection. I dont understand the witness' answer, myself.

Mr. McDonough: I will ask him again, your Honor.

Q. Mr. Forrester, you gave your testimony soon after the occurrence of July 17th, did you not?

A. Yes, sir, I did.

Q. Here in the United States Court? A. Yes, sir.

Q. That testimony was read over to you today by me, was it, just this afternoon? A. Yes, sir.

Q. Now, refreshing your memory, I will ask you if you did not say in that evidence that you sold ammunition on that day, and you sold all you had, which was not very much?

A. Well, I believe that I did, yes, sir. That is the metallic cartridges.

Q. What kind of ammunition did you sell?

Mr. Neal: We object to that, he has not testified yet that he sold any. He said he believed he stated that be-
2090 fore, but he has not said now that he believed he sold any on that day.

Q. Is that your recollection, as to the fact, what you stated there?

A. Well, what I stated there is the best I recollect it.

Q. What kind of ammunition did you have in the store?

A. Well, I had, I suppose, shot gun shells and some metallic shells, cartridges.

Q. What do you mean by metallic shells?

A. Winchester and target shells, and so on.

Q. And do you know from whom you first got the news that morning of the difficulty? A. I do not, no, sir.

Q. You heard it early in the morning, I believe you said?

A. Something after seven o'clock, I don't remember what time. I know it was after seven because I never went to town until seven.

Q. Did you or did you not hear it as soon as you got to town?

A. I can't say that I did or did not. I don't know, but soon after that time.

Q. Did you order and keep in stock after that some additional ammunition, including shells for high powered rifles?

A. I did, yes, sir.

Q. Sell any of them after that? A. Yes, sir.

Q. To the local trade there?

A. To the local trade, yes, sir.

Q. The majority of the men working there are union miners, are they not, and were so at that time?

A. Yes, sir.

Cross-Examination

By Mr. Warrum:

Q. I will ask you if in your examination by Mr. McDon-
ough, which he has called to your attention in the con-
2091 tempt proceedings, if you were asked this question: "Q. Did you sell ammunition on the 16th after dark?

A. No, sir.

Q. Did you sell it before dark on Thursday evening?

A. I don't remember the date, I never sold any ammunition before that racket over there."

A. The meaning of that question would be that I never sold any high powered shells before then, any more than just the common run of ammunition that I kept in the store for sale.

Q. And this question, this further question was asked and answered: "You knew before the mine trouble at No. 4 you never sold any before that?

A. No, just occasionally when a man came over and dropped in and called."

A. Just the common run of trade, dropping in and calling for shells all the time. I suppose I sold some every day.

Q. You did sell some ammunition of the ordinary kind from time to time? A. Yes, sir, every day, I suppose.

Q. Do you remember the occasion of the citizens putting a guard about Hartford just before this affair?

A. I don't know that I did, no, sir.

Q. Do you remember of the shooting up of Frogtown the Sunday before this July 17th?

A. I remember of hearing of it, yes, sir.

Q. And do you remember whether or not these were guards thrown about Hartford after Frogtown was shot up?

A. I don't know that I can say there was or was not?

Q. You didn't sell any ammunition for that purpose?

A. No, sir, not that I know of.

Q. Did you hear of the guards being put about the town?

A. I couldn't say now that I did. I might have, but I cannot say now for sure.

Q. When did you leave Hartford?

2092 A. I have been away from there at little over a year.

Q. Did you sell any ammunition to Mine No. 4, Bache-Denman Mining Company?

A. I couldn't say that I did or did not. I don't know who all I sold it to, now.

Q. Do you know any of the guards that were at that mine? A. I do not, no, sir.

Redirect Examination

By Mr. McDonough:

Q. At what place did you say you were living now, and doing business now? A. Hannah, Oklahoma.

2093 MRS. JOHN DEGEN, called as a witness on behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name, please?

A. Mrs. John Degen.

Q. I know that you have not a strong voice, Mrs. Degen, but I wish you would please make all the effort you can to make the last juror back here, and the counsel for the de-

fendants and the court behind you hear what you have to say. A. Yes, sir.

Q. Where do you live now, Mrs. Degen?

A. I live with my mother on South M Street.

Q. In Ft. Smith? A. Yes.

Q. In 1914 where did you live? A. At Huntington.

Q. Where? A. At Huntington.

Q. How long did you live there prior to that?

A. Let me see. We lived there about two years, I guess, before that.

Q. You had a family there? A. Yes.

Q. How many children? A. I had five children.

Q. You were living with your husband and five children at Huntington? A. Yes, sir.

Q. Do you remember the day, April 6th, when they had, —marched over to Prairie Creek No. 4? A. Yes, sir.

Q. Please speak up, Mrs. Degen, so that the stenographers can hear your answers. A. Yes, sir, I will.

Q. Did you see the crowd there? A. Yes.

Q. State what you saw?

2094 A. Well, I just saw a large crowd of miners passing and it looked almost like an army to me, and they had a band in the procession.

Q. Did your husband go with the crowd?

A. No, he didn't go with the crowd, but he went out afterward.

Q. Was he a union miner? A. Yes.

Q. Where did he work? A. At No. 3.

Q. No 3 Central? A. Yes, sir.

Q. Did you hear any of these union miners say anything as they were going out, as to what they were going to do?

A. Well, no, not right at that time.

Q. Did you hear them soon after that say what they were going to do? A. Yes.

Q. What did they say?

Mr. Warrum: The defendants severally object, unless an effort is made to direct the attention of this witness to some particular person.

The Court: Yes, I think that is a proper objection.

To which ruling of the court, the plaintiffs, and each of them then and there duly excepted and still except.

Q. How soon after that,—how soon after they went out to the Prairie Creek school house did you hear them talking about it? A. That afternoon.

Q. The afternoon of the same day?

A. Yes, sir, that night.
Q. When they just returned?
A. Yes, I heard my husband talking about it.
Q. State what your husband said they did that day?
A. They said they went out to make a showing.

Mr. Warrum: The defendants desire to object to the conversation that this witness had with her husband on that occasion. Her husband was not a defendant and he is
2095 now dead, and I suppose the communication is of a privileged nature, while we claim it on the part of the husband.

The Court: I suppose you are not in a position to claim it. All communications made by a husband and wife are not necessarily privileged. She said he was one of the miners.

Mr. Hull: A union miner.

Mr. Warrum: In a sense, I presume he was a party to the suit. They personify the [loca,] district and national organizations and then they refer to them particularly when it is to their advantage to do so.

The Court: I suppose this man, if he was a member of that union, was one of the defendants here.

Mr. Drinker: He was certainly a member of the conspiracy.

The Court: If he was, it is a privileged communication.

Mr. Drinker: If he were a member of the conspiracy?

The Court: Yes, then he is one of the defendants in this suit.

Mr. Drinker: Declarations are evidence, are they not?

The Court: Yes, but not to his wife. Declarations from a man to his wife are always privileged even in a divorce case. Communications, not declarations.

Mr. Drinker: Where the wife does not desire to take advantage of it?

The Court: Yes, he can take advantage of it whether she wants to or not. That is a well known elementary rule, that it is a privileged communication. I am assuming that this man or his estate, if he is dead, is interested in this suit as a member of that local. I am assuming that. If there
2096 is no such relation and that does not apply to any of these men, then what I have said is not true. Won't you concede that?

Mr. Drinker: I suppose he might have an indirect interest if he had paid any dues that were not used up to this time.

Mr. Hull: We will withdraw the question.

The Court: It comes within the well known rule of privileged communications, and that principle of the law is that any communication made by a husband to a wife, or by a wife to a husband, cannot be revealed under objection by the other party. It does not make any difference what that communication is. If the other side objects to it, it cannot be used.

Mr. Hull: We withdraw the question.

Q. Did you hear any others talking about what they had done over there that night besides your husband? A. No.
Q. Did you see anyone going out with that crowd besides your husband?
A. Yes, I saw all the miners,—the band boys.
Q. Did you see any doctor? A. Yes, I did.
Q. What was his name? A. Dr. Mosely.
Q. Did you see him coming back? A. Yes.
Q. With whom was he? A. Freda Hogan.
Q. Do you know whether Freda Hogan had made a speech that day?
A. I did not hear her make a speech, but I heard that she did.
Q. Do you remember the night of the day of the big battle over there, July 17th? A. I remember that night.
Q. You remember the night before? A. Yes.
Q. Were you in Huntington then? A. Yes.
Q. Tell the court and jury what happened in Hunt-
2097 ington that night to your knowledge?
A. The next door neighbor of ours, Luke Hall, came to our door and knocked on our door in a frightened way and wanted us to get up. He said these "scabs" were coming to clean us up and wanted us to get up and get ready for them.
Q. Who was Luke Hall?
A. He was the next door neighbor of ours.
Q. Was he a union man?
A. Yes, he was a union man, he worked at No. 3.
Q. Did he have a gun? A. Yes.
Q. What time was it?
A. It was some time in the after part of the night.
Q. Was it after midnight?
A. I don't know just what time it was.

Q. What did you do?

A. We went across the street to an uncle of his, Ben Hall's, and we stayed there on the porch quite a while, and we were all scared, of course, but pretty soon we began to see people coming from all directions going to town, to hunt ammunition to get ready for the fight, I guess. That is what they said they were going to town for. We sat on the porch a while and saw them going to town and coming back.

Q. In what direction

A. Going to town and then on the way out towards Ben Hall's.

Q. Out toward the mine? A. Yes.

Q. Did you hear any of them say anything as they went back toward No. 4, what they were going to do?

A. They were talking of going up there and if the scabs opened up their heads they were going to kill them.

Q. Did your husband and another man go out to No. 4 the next morning? 2098

A. Yes, they went out the next day.

Q. What time the next day?

A. Sometime in the forenoon.

Q. Who was that man that went with your husband?

A. Mr. Joe White.

Q. Do you know where he worked?

A. He worked at No. 3.

Q. Did you hear him say anything that night when they came back about what happened at No. 4?

A. Not at that time, I didn't hear him say anything that day, but I did afterwards.

Q. How soon afterwards?

A. Well, it has been just about two or three months ago that I was down there.

Q. Were you down there two or three months ago?

A. Yes.

Q. Did you hear him talking about the burning up of the mine? A. Yes, sir.

Q. What did he say to you?

A. Well, he just said that the union did it.

Q. Did you ever hear Tom Evans make a similar statement? A. Yes.

Mr. Warrum: If the court please, we believe we will object to this. There is no evidence that Joe White or Tom Evans are defendants in this case. It is true that the statement has been made by the witness that Joe White belonged to the union and worked at Mine No. 3, as I remember, but nothing about Tom Evans. And whether or not Joe White belongs to

the union now or did at the time the suit was instituted, has not been proven, and this is certainly no part of the res gestae, and at most could only be introduced as an admission by a party to the suit, made two or three months ago, long after the institution of the suit. The defendants severally
2099 object to the introduction of this evidence for the reasons just given.

The Court: It is pretty indefinite as to who these parties are, Mr. Hull.

Mr. Hull: If the court please, if the evidence of this woman's husband goes out just because he was a member of the union, he is a party to this suit, although not named. And it seems to me that what Joe White said as a member of the union is competent.

The Court: She testified he was a member of the union?

Mr. Hull: Yes.

The Court: Then the objection is overruled.

Mr. Warrum: This is a conversation that occurred two or three months ago.

The Court: I understand.

Mr. Hull: I will strike out the question about Tom Evans, if the court please.

To the last above ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull: That is all, Mrs. Degen.

Cross-Examination.

By Mr. Warrum:

Q. Where does Joe White live?

A. He lived on the west side, a near neighbor of ours, about the second house from us.

Q. In Huntington? A. Yes.

Q. Did he live there two or three months ago when you had this talk with him?

A. It was longer than that, it was about February.

Q. About February of this year you had that talk with him? A. Yes.

Q. Now you say on the 6th of April you saw a large
2100 crowd of miners with a band, I believe you stated, moving out of Huntington towards Prairie Creek, is that right? A. Yes.

Q. Was there anyone in the crowd on April 4 besides the miners? A. What is that?
Q. Were there other citizens in that crowd besides miners?
A. The band boys and a drayman.
Q. Who else? A. A drayman.
Q. How many draymen? A. Just one.
Q. Was there a doctor with that crowd? A. What?
Q. Was there a doctor with that crowd?
A. I don't know whether he was just with that crowd or not, but he went out there.
Q. Were there any other citizens that you recall now?
A. Well, yes, all of the miners were there, but I don't remember anyone in particuular.
Q. Apart from the miners, were there any citizens in that procession that moved out with the [hand]?
A. Well, I don't know. Most everyone went out there.
Q. How large a crowd was it? A. What?
Q. How large was the crowd that moved out on April 4?
A. It was a big crowd.
Q. What? A. It was a big crowd.
Q. Were there three or four hundred of them?
A. Not that many I don't think.
Q. Were there 200 of them?
A. It was a pretty good sized crowd.
Q. Were there women and children in the procession?
A. I didn't see any women or children in the parade that day.
Q. How were they marching, on foot or in automobiles or in wagons? A. The miners were walking.
2101 Q. In addition to those walking, was there anyone in buggies? A. Along later on there was.
Q. On the same day? A. Yes, sir.
Q. How much later on?
A. Well, all through the day there was quite a considerable all day.
Q. Some going out in automobiles, too?
A. I don't remember whether there were any automobiles or not.
Q. Did you see any of your neighbors going?
A. People all around went.
Q. Were the people all around there miners?
A. Most all were miners.
Q. Your husband was a union miner? A. Yes.
Q. He belonged to the union until the time of his death, did he? A. Yes.
Q. When did he die? A. He died last December.

Q. Now, on the night of July 16th, you have stated in answer to Mr. Hull's question that Luke Hall, a neighbor of yours, came to your house and said the scabs were going to clean us up? A. Yes.

Q. There was considerable excitement in Huntington that night? A. Yes, sir.

Q. There had been considerable excitement in Huntington before that night about scabs coming over, and when I speak of scabs I use the expression Mr. Hull did; is that right?

A. There was excitement along during the whole night.

Q. Yes,—then was there any excitement or rumors before July 16th that the guards with non-union men from Prairie Creek No. 4 were coming over to clean up Huntington?

A. That was the report.

Q. That was the report that you heard several times?

2102 A. Yes, sir.

Q. You had heard the report that Frogtown had been cleaned up by the guards and armed men at No. 4, had you not?

A. I had heard several different stories about it.

Q. Well, was it in connection with the rumors of the cleaning up of Frogtown that the Huntington people were excited over the attack on that place?

A. Well, they just thought they were coming and they were going to be prepared for them, the miners were. And they did prepare, too.

Q. Can you recall what the nature of those rumors were? Were they rumors to the effect that the guards were armed and were shooting around generally and insulting women and children? A. That was the report.

Q. Was that report general through Huntington ?

A. Yes.

Q. How long had those reports been circulated?

A. Well, off and on until,—

Q. Until July 17th? A. Until they had the battle.

Mr. Warrum: That is all.

Redirect Examination

By Mr. Hull:

Q. How large a place is Huntington?

A. Well, I don't know, two or three thousand, I guess, I don't know just exactly how large a place it is.

Q. It is a union mine town? A. Yes.

Q. How far is it from No. 4?

A. Well, it is three or four miles.

Mr. Hull: That is all.

Recross Examination

By Mr. Warrum:

Q. There are a great many people that live in Hunt-
2103 ington that are not union miners, aren't there?

A. Yes, a good many; but they are most all miners.

Q. I didn't get the last part of your answer.

A. Most of them were miners.

Mr. Warrum: That is all.

Witness excused.

2104 James Henry Meeks, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name. A. James Henry Meeks.

Q. What is your present occupation? A. A miner.

Q. Are you a union man? A. Yes, sir.

Q. How long have you been a union man?

A. Well, since 1898.

Q. Since 1898? A. Yes, sir.

Q. Do you remember the day of the battle at No. 4?

A. Yes, sir.

Q. At Prairie Creek? A. Yes, sir.

Q. Will you state what you heard and saw on the morning of that day? A. Which one, from the 6th to the 17th?

Q. July 17th?

A. Well, I had not been there in the vicinity for a right smart while until the morning of the fight, and I came back on the night before the fight taken place the next morning. And when I went down in town to purchase some groceries,—

Q. Down in Prairie Creek? A. Yes, sir.

Q. How far from Prairie Creek did you live?

A. I lived about a mile and one-half, I guess, or something like that.

Q. Go ahead.

A. And about the time I got in there the fight started, the shooting.

Q. What time did you get to Prairie Creek?

A. Well, I would judge it was something about seven o'clock.

Q. About seven o'clock in the morning? A. Yes, sir.

Q. How far is Prairie Creek from Mine No. 4?

2105 A. You mean the town?

Q. Yes, the village of Prairie Creek?

A. It is a quarter or such a matter.
Q. A quarter of a mile? A. Yes, sir.
Q. What did you find at seven o'clock when you got to Prairie Creek?
A. Well, there was quite an unusual crowd, was one thing that attracted my attention.
Q. About how many was in that crowd?
A. Well, I don't know how many there were. There was not so very many then. They were coming and going to and fro.
Q. During the morning, how many men would you say were in Prairie Creek?
A. Well, there was a good,—during the day there was a whole lot. I could not say how many, but there was several.
Q. By "several", do you mean several people or several hundred, or do you know about how many?
A. There was a good many. There was, I guess, hundreds of them,—around 500.
Q. Did a good many of them have guns?
A. Yes, they had guns.
Q. What kinds of guns did they have?
A. Well, it was a kind of mixture, what I seen, from shot guns to high powers.
Q. Who lives at Prairie Creek? What kind of a camp is it?
A. Well, there is pretty near every kind of a nationality, I guess, several at any rate.
Q. Where did the men work that lived there?
A. They did work at No. 4 until we were locked out.
Q. No. 4, Prairie Creek? A. Yes, sir.
Q. They were union miners then? A. Yes, sir.
Q. Whom did you see that morning that you knew at
2106 Prairie Creek?
A. Well, I seen the crowd that generally lived around there. I seen the most of them.
Q. Can you name any that you remember of seeing?
A. Yes, I remember two or three.
Q. Name who they were? A. Charles Bumpass.
Q. Do you know where Charley worked?
A. Well, he was formerly employed by No. 4, but I think at that present time—well, I don't think he was employed anywhere at the time, but he had worked at Duer, Oklahoma, and had just come back, I think. I don't think he had ever started to work since he came back from Duer, Oklahoma, yet, but he worked at No. 4 before he went to Duer.
Q. Who else did you see there? A. I seen Mike Menick.
Q. Do you know where Mike worked? A. At No. 4.

Q. Did you see anyone else that you remember?
A. Well, I don't,—I knew everybody most, but I [can] call them to remembrance.
Q. They were the people you knew that lived around there in Prairie Creek? A. Yes, sir.
Q. Did you see Frank Scofield there that morning?
A. Yes.
Q. Describe what, if anything, he said to you, and what he showed you?
A. I don't know just the words he used, but he told me the scabs had got him in the leg.
Q. What did he mean by that?
A. Some scabs out of the stockade had shot him through the leg.
Q. Did he show you the wound on his leg? A. Yes, sir.
Q. How badly was he wounded?
A. Oh, not much, it looked a half of the width of a bullet.
Q. Did you [now] who Frank Scofield was? A. Yes.
2107 Q. What was his occupation? A. Union miner.
Q. Did you know whether he was at that time or had been secretary of the local?
A. He had been and he was at that time.
Q. Of the local in Prairie Creek? A. Yes, 1865.
Q. Did you see the tipple at No. 3 burning that morning?
A. Yes.
Q. What time was it?
A. It was in a short while after I got in there that morning, probably 8:00 o'clock or probably a little later,—I dont know.
Q. Did you see the results of an explosion over at No. 3 slope? A. Yes, sir.
Q. About what time was that?
A. I believe it was just about the time I seen the smoke of the tipple,—just about the same time, or something near it.
Q. Were you over at the school house during that day?
A. Yes, sir.
Q. Quite a bit? A. Yes, sir.
Q. Did you see that crowd of non-union men that had been captured and brought over to the school house? A. Yes.
Q. Describe what you saw in that connection?
A. Well, I saw some six or eight men,—I dont know how many. I seen them coming up, and it was reported by someone that they was non-union men, scabs, they were termed.
Q. Who, if anyone that you remember, was in the crowd of union men that had captured them?

A. No, I didnt say they captured them.
Q. Was Charley Blackburn in that crowd?
A. He was there, but I did not see those men captured. I just saw them after they had them.
2108 Q. He was one of the union men that had them?
A. I dont know that he had them. He was in the crowd the same as the rest of them.
Q. Do you know where Charley worked?
A. No, sir, I dont.
Q. Do you know he was a union miner?
A. I didnt know he was, but I supposed he was.
Q. Was there anything said at that time about some United States marshals? A. Yes, sir.
Q. What was that?
A. The report came in, some way or other, that the United States marshals were getting off of the train at Midland, and would be over there in a few minutes.
Q. What did they decide to do as a result of that?
A. I think what they intended to tell them was just to hold their peace a little bit until they got through what they were going to do, and they would give up to them.
Q. What did they do at that time when the talk was that the United States marshals were coming? Did they stay right at the school house? A. The union men did.
Q. Did the non-union men leave? A. Yes, sir.
Q. Where did they go?
A. They went back up the hollow somewhere.
Q. Did they go alone?
A. No, there was a party sent with them.
Q. Do you know who those parties sent with them were?
A. No, sir, I dont.
Q. Were they union men?
A. Well, I dont know.
Q. Would you say that the non-union men went up there alone, without any union men?
A. No, sir, I would hardly think so. There was men went with them, but I dont know whether they belonged to the union or not.
2109 Q. You do not know who the men were?
A. No, sir, I didnt know their names,—I didnt know the names of any of them that went up there.
Q. Did you see Jim McNamara that day?
A. Yes, sir.
Q. Who was Jim McNamara?
A. Well, I dont know just what he was.
Q. He worked over at Central No. 4, did he?

A. Yes, he worked at Central No. 4, check weighing, I believe was his occupation.
Q. Where did you see him?
A. I saw him at the well at Mastell's store getting a drink, I believe it was.
Q. At Prairie Creek? A. Yes, sir.
Q. About what time was that?
A. It must have been nine o'clock, or something like that.
Q. You stayed around there practically during the whole of the battle, did you, Mr. Meeks? A. Yes, sir.

Mr. Hull: That is all.

Cross-Examination

By Mr. Warrum:
Q. You say in the morning about seven a. m., you saw an unusual crowd around Prairie Creek? A. Yes, sir.
Q. Were you then in Prairie Creek? A. Yes.
Q. Did you afterward walk over to the school house,—is that it? A. Yes, sir.
Q. How many hundred people were in that crowd?
A. Well, I dont know, I could not say. There were several.
Q. Can you approximate it, the number?
A. No, sir, I could not possibly give the number.
Q. You say there were many guns in the crowd?
A. Yes.
Q. And were there many without guns?
2110 A. Yes, sir, there were some without guns.
Q. Were you a union miner then? A. Yes, sir.
Q. Did you have a gun? A. No, sir.
Q. Did you do any shooting that day? A. Sir?
Q. Did you do any shooting that day?
A. Well, yes, I guess I did, late that evening.
Q. Where did you shoot late that evening?
A. I just shot to be a doing.
Q. Were you shooting at a target or at somebody?
A. No, sir, I just shot up to be a doing.
Q. Did someone hand you a gun? A. Yes.
Q. Did you shoot it up in the air? A. Yes.
Q. You shot it once?
A. I shot it twice, I believe, and got a cartridge hung in it and could not operate it any more.
Q. What time in the evening was that?
A. I guess about four o'clock.
Q. Was the battle over? A. Yes, sir.
Q. Had everyone gone away?

A. Everyone had gone away from the tipple and gathered up on the big road.

Q. Did you do any shooting while the people were there?

A. No, sir.

Q. Did anyone offer you a gun?

A. No, sir, only the one I taken.

Q. What? A. The one I taken.

Q. I mean during the battle?

A. No, sir, I didnt have any gun then.

Q. How long have you lived in that neighborhood?

A. Well, I have been there and around Huntington for about,—ever since 1898 or 1897.

Q. Did you recognize a great many of these people
2111 that were in and about there? A. Yes, sir.

Q. Were there a lot of people there that were not union miners?

A. Yes, sir, there was lots of them there.

Q. Who were they, were they farmers, merchants and men in other businesses? A. Yes, sir.

Q. How many of them?

A. Well, there was lots of them.

Q. Were there any from Huntington that you knew that were not union miners?

A. No, sir. I dont know very many people at Huntington.

Q. Who were they, farmers around there?

A. They was farmers and preachers and doctors.

Q. Were there any lawyers?

A. I dont know that I saw any lawyers.

Q. Did you see the sheriff there?

A. I seen constables and marshals.

Q. You seen the constables there, did you?

A. Yes, sir.

Q. Did you see any judge there?

A. I dont know who was judge there at that time.

Q. How many preachers did you see?

A. I dont know. There was one there,—probably two, I believe.

Q. Do you know how many farmers you saw in that neighborhood? A. No, sir I dont.

Q. What time was that Frank Scofield showed you the wound in his leg?

A. That was in the morning about a little before or after that No. 3 burned; I dont know just exactly when it was.

Q. Did he tell you that the men from Mine No. 4 had shot him? A. Yes.

Q. Did he say who? A. No, he didnt know.
2112 Q. He didnt know? A. No.
Q. Did he say when he had been shot?
A. How is that?
Q. Did he say when it was that he had received his wound?
A. Yes, sir, he told me it was just before that. He was on his porch. He was showing me the place.
Q. When did he say it was he had been shot?
A. He was shot in the morning, I believe it was.
Q. How long had you been away from there? You said you had just returned the night before?
A. I think it was something like three weeks.
Q. Had you been in Prairie Creek or Frogtown previous to your going to Oklahoma, as I understand you were there during this three weeks' stay?
A. I had been in Prairie Creek.
Q. Did you know of guards shooting into Prairie Creek?
A. No, sir.
Q. You never saw them there with guns?
A. Yes, sir, I have seen them in the town with guns, but not shooting.
Q. Prairie Creek is not within this enclosure?
A. No, sir, not hardly.
Q. Who gave you that gun on the evening of July 17th?
A. I dont know him, some man came and took it. I never knew whose gun it was nor who took it, nor who I got it from. There was some man came up and was looking at the gun. I was not acquainted with.
Q. Where were you when it was handed to you?
A. In the big road up there, right southeast of No. 4.
Q. Near the school house?
A. No, sir, it was on south of the school house.
Q. In the public road?
A. Yes, sir, in the public road.
2113 Q. What local did you belong to? A. 1565.
Q. Where is that local? A. At Prairie Creek.

Mr. Warrum: That is all.

Redirect Examination

By Mr. Hull:
Q. What is the name of the preacher you saw there that day?
A. Well, I didnt see the preacher there, but he was telling me he was there.
Q. I thought you told counsel for defendants that you saw a preacher there?

A. No, he asked me who was there. I did not see him.
Q. You were telling what you heard?
A. He told me out of his own mouth he was there.

Mr. Hull: That is all.

Recross Examination

By Mr. Warrum:

Mr. Warrum: Owing to the confusion of the witness, I would like to question him a little further.

Q. Now, I am asking you about what you know, Mr. Meeks. In this crowd of several hundred persons, you recognized a great many people, did you not?
A. Yes, sir.
Q. That is, aside from what others told you?
A. Yes, sir.
Q. Didnt you see a great many people there that were not union miners at all?
A. Well, yes, sir, I seen several there that did not belong to the union at all and were not miners.
Q. And were they the farmers and the merchants and the bankers you talked about?
A. Yes, sir, I seen farmers and dry goods men and grocery men and drug store men out in the crowd.

2114 Redirect Examination

By Mr. Hull:

Q. You saw S. O. Harris there, didnt you, that morning?
A. I cannot call to remembrance seeing him.
Q. Was he the dry goods man you referred to?
A. There were two or three dry goods men there.
Q. What were their names?
A. One, if I am not mistaken, was Mr. Hamilton.
Q. Luke Hamilton? A. No, W. J. Hamilton.
Q. What doctors did you see there?
A. Well, I seen Dr. Chambers there, but I dont recollect whether I seen him on the 17th or not. He was there on the 6th. I [went] say for certain I seen him on the 17th.
Q. What other doctors,—what doctor did you see except him? A. I am not certain.
Q. What bankers did you see?
A. I dont think I seen any bankers.
Q. I thought you answered counsel that you saw bankers there?
A. No, sir, I didnt understand him to ask that.
Q. What farmers did you see there?

A. Fred Smedley was one and several other fellows were farmers. Probably they belonged to the miners, union, too, but they farmed.

Witness Excused.

2115 ELMER BOHANNAN, called as a witness on behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name? A. Elmer Bohannan.
Q. Where do you work?
A. At Clarksville, Arkansas.

A Juror: We do not hear him.

A. (continuing). Clarksville, Arkansas.
Q. Speak up, Mr. Bohannan. How long have you lived in Clarksville?
A. Ever since about the 23rd of April last.
Q. Where did you live before that?
A. At Hartford, Arkansas.
Q. Were you running a mine down there near Prairie Creek No. 4 at the time of the trouble down there in April?
A. Yes, sir.
Q. Do you remember the riot they had over there April 6th? A. Yes.
Q. Did your mine run that day? A. April 6?
Q. Yes? A. No, sir.
Q. Why didn't it run?
A. Well, the men didn't report for work, is all I can tell you why.
Q. Were you running under union conditions?
A. Yes.
Q. How many men did you employ there?
A. Something like a hundred.
Q. Do you remember the day of the battle, July 17th?
A. Yes, sir.
Q. Did your mine run that day? A. No, sir.
Q. Why not? A. I didn't have men to run it.
J. They did not report? A. No, sir.

2116 Q. What was the first you heard or saw of the battle?
A. Well, I saw the smoke of what we thought was No. 3 tipple burning.
Q. Did you go over there then? A. Yes.
Q. Did you find it was No. 3 tipple burning? A. Yes.

Q. What time did you get there?
A. I judge it was about eleven o'clock.
Q. With whom did you go?
A. A fellow by the name of Connister, Dave Connister.
Q. Where did you go?
A. Well, we drove up the county road and stopped about Prairie Creek.
Q. Where there many peaple in Prairie Creek at that time, at ten o'clock? A. Yes, quite a few.
Q. How many?
A. I can't tell; I didn't count them; I judge there were two hundred or three hundred probably.
Q. How many of them had guns?
A. I could not tell you that.
Q. You did not count those?
A. No, sir, I didn't count them.
Q. Were there a good many? A. Yes, quite a few.
Q. Would you say half of the people there had guns?
A. Well, I judge about half of them did, yes, sir.
Q. Who did you see there that you knew?
A. Well, I saw Clint Burris for one.
Q. Did Clint Burris have a gun?
A. I could not say whether he did or not,—I would not say.
Q. You would not say he did not have a gun, would you?
A. I would not say that he did have a gun or did not have a gun, no, sir.

Q. What were these men doing at Prairie Creek?
2117 A. Chasing around there up and down the road and through the woods.
Q. What were they doing, chasing around through the woods?
A. Oh, well, I could not tell you what they were doing, they were just walking around then.
Q. Was there any shooting going on around there?
A. Yes, sir, some shots were fired, but I cannot tell you who it was. I did not see them.
Q. Was the shooting going on into No. 4?
A. No, sir, the shooting was from No. 4.
Q. Was there any into No. 4?
A. I could not tell you whether they were shooting in that direction or not. I could just hear the sound of the guns.
Q. How long did you stay there?
A. Well, about two hours I suppose.
Q. And then you went home? A. Yes, sir,

Mr. Hull: That is all.

Mr. Warrum: That is all.

Witness excused.

2118 JOHN W. BAKER, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follow:

Direct Examination

By Mr. Hull:

Q. State your name? A. John W. Baker.

Q. Where do you live? A. Poteau, Oklahoma.

Q. Were you living at Midland or near Midland in 1914?

A. No, sir, I was living at Poteau, but I was down at Midland.

Q. Were you down at Midland on May 18th, 1914?

A. Yes.

Q. Describe what you saw in front of Buck Tharel's store?

A. I seen the company wagon come up to the depot and get a stove and a box of bread.

Q. By "the company's wagon", you mean the Bache-Denman wagon? A. Yes.

Q. Who was on that wagon?

A. Bill Bohannan, and a couple of more fellows. I disremember now just who they were, and they come up there and got a stove and a box of bread, and some of the boys said, "Let us rock them scabs".

Q. Who were the boys that said that?

A. They were around the corner of Buck Tharel's store.

Q. Did you recognize any in that crowd? A. Yes.

Q. Who were they?

A. Moro Colo and Foster Bean.

Q. Do you know where they worked?

A. I think for Prairie Creek, I don't remember for sure.

Q. Do you know whether they were union or non-union men? A. They were union men.

Q. What did they do?

A. They commenced throwing rocks at them.

Q. Who did you see?

A. Moro Colo and Foster Bean.

2119 Q. Now, after the wagon had gone some distance, what happened?

A. Well, they stopped filled the box and Bohannan got out with his gun.

Q. What did he do with his gun? A. Nothing at all.

Q. Did he point it at anybody? A. No.

Q. What happened then?

A. The officers came down and arrested them.
Q. Do you know who the officers were?
A. I know their faces, but I don't know their names.

Mr. Hull: That is all.

Cross-Examination

By Mr. Warrum:

Q. You lived in Poteau then? A. Yes, sir.
Q. And you just casually were in Midland on that occasion, were you?
A. I just went down there on a visit.
Q. On a visit? A. Yes, sir.
Q. Are you a married man? A. Yes, sir.
Q. Who is father-in-law? A. Syllsbury.
Q. The Syllsbury who testified day before yesterday?
A. Yes, sir.
Q. This was in front of Tharel's store you saw this occurrence? A. Yes.
Q. Had you seen the guards in there on the company wagon these men were in? A. No, sir.
Q. How many men were in the wagon? A. Three.
Q. Did all three have guns?
A. I didn't see but one gun.
Q. Who had that? A. Bill Bohannan.
Q. Had there been anything said between the men in the company wagon and the boys on the street before the boys said, "Let's rock those scabs"? A. No, sir.
2120 Q. Nothing at all was said? A. No.
Q. Do you know whether any of them were struck with rocks?
A. No, sir, I don't think there were.
Q. How far away was the wagon from the boys?
A. Between 50 and 100 yards.
Q. Then Bohannan got out of the wagon?
A. Yes, they all three got out of the wagon.
Q. Was he the only one that had a gun when they got out of the wagon A. Yes, sir.
Q. Did they arrest all three of them? A. Yes.

Mr. Warrum: That is all.

Witness excused.

2121 Mr. Hull: We offer the deposition of Charles Cheek, taken on the 17th day of October, 1917, between the hours of 8:00 o'clock in the forenoon and 6:00 o'clock in the afternoon at room 311 in the Federal Building at Fort Smith Arkansas.

The defendants were not at the morning session at which the direct examination took place, but we furnished them with a stenographic copy of the examination, and the dedants came back at 2:00 o'clock in the afternoon and cross examined the [witnss]. (Reading):

"CHARLEY CHEEK, being called for the plaintiffs, being first duly sworn, deposes anl says.

Direct Examination

By Mr. R. B. Hull:
Q. What is your full name? A. Charley Cheek.
Q. Where do you live? A. Clarksville, Arkansas.
Q. What is your present occupation?
A. Soldier at the present time.
Q. In what company? In what service?
A. Supply 35th Infantry.
Q. Regular army? A. Yes, sir; regular army.
Q. When did you volunteer in the regular army?
A. On the 28th day of July, 1915.
Q. Are you sure it was 1915? Wasn't it July a year ago? A. A year ago this last July.
Q. Then it was July, 1916? A. Yes, sir.
Q. Where you when you volunteered?
A. At Fort Smith, Arkansas.
Q. Where are you stationed at the present time?
2122 A. Nogales, Arizona.
Q. How long have you been there?
A. Since last March, the 27th.
Q. Are you here in Fort Smith on a furlough?
A. Yes, sir.
Q. And that furlough was granted at my request?
A. Yes, sir.
Q. For the purpose of allowing you to come to Fort Smith to testify in this case? A. Yes, sir.
Q. How long is that furlough? A. Twelve days.
Q. When did you leave Nogales?
A. I left on the 8th but my furlough extends from the 9th. I got permission to start about twelve hours earlier.
Q. When does that furlough expire?
A. The twentieth.
Q. Does that include Saturday the twentieth?
A. Yes, sir.
Q. Do you know when you can get to Nogales if you leave here tonight on the 11.10 train?
A. Get there Saturday morning at ten o'clock providing the trains are all on time.

Q. When did you arrive in Fort Smith?
A. Last Thursday morning.
Q. When did you report to me?
A. Thursday between 8 and 9 o'clock Thursday morning.
Q. Thursday morning the 11th of October?
A. Yes, sir.
Q. Have you held yourself in readiness to testify since that time? A. Yes, sir.
Q. And when reporting to me frequently?
A. Yes, sir.
Q. In order to learn whether or not your testimony was to be taken? A. Yes, sir.
Q. Do you remember in 1914 when you were working for the Bache-Denman Coal Company at Prairie Creek?
2123 A. Yes, sir.
Q. When did you go to work down there?
A. On the 6th day of May, the best I remember right now.
Q. What were your duties there? A. Firing.
Q. Did you have anything else to do there?
A. No, sir, that is what I went there to do, fire and work at the mines.
Q. Were you assigned to do anything else while you were there later on? A. Yes, sir.
Q. What was that work?
A. Running the hoisting engine some and done some wagon work, driving a team, and done a little guard duty.
Q. Did you go down to the mine on Sunday April 5th?
A. Yes, sir.
Q. With whom did you go? A. Will Young.
Q. Who got you to go down there? A. John Trigg.
Q. What did you do that night,—that Sunday night?
A. Fired the boilers.
Q. Do you remember the trouble that took place there on Monday? A. Yes, sir.
Q. What was the first you saw of that trouble?
A. The first I saw was the men gathering around the school house.
Q. About how many men were gathering there?
A. Looked to be somewheres around 750 or 800 men.
Q. Do you remember anyone from the school house going down to the mine? A. Yes, sir.
Q. Who came down?
A. All the whole crowd came down there.
Q. Did the committee come down before that?
A. Yes, sir.

Q. Who were on that committee, if you know?
2124 A. I know their faces but I can't hardly remember their names.
Q. Do you know whether Jim Slankard was on that committee?
A. Yes, sir, Jim Slankard was there on the committee.
Q. Can you think of any others?
A. And Clint Burris. No, it wasn't Clint Burris.
Q. Were John Manick and Ves Howard on that committee?
A. Yes, sir.
Q. Did Slankard have any conversation with you?
A. No, sir.
Q. Did anyone ask you if you would go and talk with the man? A. Yes, sir; the committee asked me that.
Q. Who did the talking?
A. Slankard, the best I remember, did the talking.
Q. What did he say?
A. He asked if I would go out and talk to the crowd of men?
Q. Did you go? A. No, sir.
Q. What did you tell Slankard?
A. That I was afeared to go out there to where the body of men was.
Q. Was this before the crowd had come on to the mine property? A. Yes, sir.
Q. Were they at the ropes at that time? A. Yes, sir.
Q. There was a wire rope stretched around the mine enclosure? A. Yes, sir.
Q. Who was guarding out there at the edge of the road?
A. Bailey and Barnes.
Q. Did you see any trouble out there where they were guarding? A. Yes, sir.
Q. State what you saw.
A. I saw some men jump on to Barnes out there and beat him up.
Q. What was the next thing you saw? Did you see anyone go up on the platform after the fight there?
2125 A. Jim Slankard climbed up on a little platform where they loaded coal into cars out there and told the crowd that they would cease operations at the mines; that the superintendent had agreed to.
Q. What if anything, did the crowd do after Slankard made that announcement?
A. They broke over the ropes and came out to the mine property.
Q. What did they do?

A. They beat Sylesberry and Looper up and also nailed the union banner up on the tipple.

Q. Did you see them beat up Sylesberry and Looper?

A. Yes, sir.

Q. Did you see anybody that you knew hitting Sylesberry?

A. Yes, sir.

Q. Who was it? A. Clint Burris.

Q. What did he do? A. Hit him with his fists.

Q. Did Looper start that fight? A. No, sir.

Q. What was Looper doing?

A. They were pulling the fires from the boilers.

Q. Who were they? A. Looper and Sylesberry.

Q. Were Looper and Sylesberry showing any fight when they were attacked? A. No, sir.

Q. How many were in the crowd that beat up Sylesberry and Looper?

A. I couldn't hardly estimate they were so thick around there,—quite a number of them.

Q. Was the whistle blown at that time? A. Yes, sir.

Q. Did you see who blew it? A. Yes, sir.

Q. Who was it?

A. I can't call his name just now. I know his name but I can't recall it. He blew the whistle a while and then
2126 tied it down with the rope.

Q. You can't remember his name? A. No, sir.

Q. Do you know where he worked?

A. No, sir, I don't know where any of them were working there?

Q. Do [pou] remember some trouble that you had on May 18th up at the Midland Station? A. Yes, sir.

Q. Will you describe who was with you and what happened up there?

A. Will Bohannon and Levi Brown went up there with me to haul a stove and some bread from the depot down to Mr. 4 camp.

Q. State what, if anything occurred while you were putting the goods on the wagon?

A. There was a crowd of men gathered up around Buck Tharel's grocery store there.

Q. How far was Buck Tharel's store from the station?

A. Something like a hundred feet.

Q. Did you recognize anyone in that crowd?

A. Yes, sir.

Q. Who were they? A. Moro Colo and Foster Bean.

Q. Did you see any officers of the law over there at Buck Tharel's store? A. Yes, sir; saw one.

Q. Who was he?

A. He was the City Marshal there or Constable.
Q. Do you know whether it was Constable Philpot?
A. Philpot I believe is his name, yes, sir.
Q. Now when you started from the station in the wagon what happened? A. They began to throw rocks at us.
Q. Did you see anyone throw rocks? A. Yes, sir.
Q. Who? A. Moro Colo and Foster Bean.
Q. Was Constable Philpot there at that time? Yes, sir.
Q. State then what occurred?
A. We drove down a piece and some bread boxes were
2127 about to fall off the stove and we got down to fasten them and tighten the ropes up. The Constable and Marshal and deputy, I believe, they said he was, came down there and arrested us.
Q. Do you know what the name of the City Marshal was?
A. Hulsy.
Q. Do you know whether that was Madge or Marion?
A. It was Madge Hulsy.
Q. Was his brother the deputy?
A. Yes, sir, if I understood it right; one of them was constable and the other was city marshal.
Q. Did Will Bohannon do anything with his gun at that time?
A. He taken it out of the wagon and set it down against the wagon wheel.
Q. Did he point it at any one? A. No, sir.
Q. What were you arrested for?
A. Stopping there in the road I guess. I was accused of carrying concealed weapons.
Q. Do you know whether any arrests were made of the rock throwers? A. Not that I know of, no, sir.
Q. Was this the time when you were subpoenaed to go over to Midland to testify at night? A. Yes, sir.
Q. Then there were some arrests made?
A. I suppose there were by me getting a subpoena to go over there.
Q. Who was subpoenaed?
A. Will Bohannon, Levi Brown and myself.
Q. Was that the same night? A. Yes, sir .
Q. Was it the same night that this occurred in the morning? A. Yes, sir.
Q. Did you go over there to testify? A. No, sir.
2128 Q. Why didn't you go?
A. I was afeared to go over there.
Q. Where were you summoned to appear?
A. Midland at the Mayor's office.
Q. When was that case called?

A. The next day at ten o'clock.
Q. What was the outcome of that case?
A. They gave us a trial there and I was fined a hundred dollars and costs and taken a change and went to Greenwood with it.
Q. Do you remember some trouble you had at Prairie Creek station around the tenth of June? A. Yes, sir.
Q. State now without my asking you any further questions, all that happened at that time?
A. We was going over there to meet the train to haul some feed and groceries out to the mines. Robinson cut up some feed sacks. And Sandy Robinson kicked open some bales of hay. Slankard was there, constable, and didn't try to avoid any of it at all; didn't say anything to him.
Q. Did you see Sandy Robinson [out] these sacks?
A. Yes, sir.
Q. What did he cut them with? A. Pocket knife.
Q. Was there anything said by that crowd?
A. Yes, sir, one of the train crew told them to throw it off —said it was scab stuff and it didn't matter how they handled it.
Q. Were any remarks addressed to you and the rest of the employees? A. Yes, sir, they called us scabs.
Q. State how they called you scabs, what language or what tone?
A. They were cussing and called us scabs and scabbing sons of bitches; that we were working at the mines out there.
Q. Who did that cussing? A. Sandy Robinson.
Q. Do you remember any others that were there?
2129 A. Clint Burris I believe was there.
Q. Now do you remember some trouble that was had on the train—Midland Valley train No. 4 crossing about June 15th? A. Yes, sir.
Q. Will you state what occurred at that time?
A. There was some of us coming down from Fort Smith, been up here attending court and coming back to the mines the train stopped there for them to get off. We also had some groceries on the train that evening and Sandy Robinson and Clint Burris.
Q. Did you see any one there with a ball bat in his hand?
A. Yes, sir.
Q. Who was that?
A. Sandy Robinson. There was two of them but I can't speak the other fellow's name.
Q. By way of refreshing your recollection, did you testify in the contempt proceedings before Judge Youmans?
A. Yes, sir.

Q. Did you then state that John Manick was in this crowd?
A. Yes, sir.
Q. Do you remember now that he was there? A. Yes, sir.
Q. What were John Manick and Sandy Robinson doing?
A. Trying to keep the man from getting off the train there to work.
Q. Where were they stationed?
A. One of them was on one end of the passenger coach and the other one was on the other end.
Q. Whom did you say had ball bats?
A. Sandy Robinson and this Manick.
Q. Who were there for the company?
A. John Shaleen, myself, Clarence Shaleen, Tom Allison.
Q. Do you remember the date of the battle?
A. Yes, sir.
2129a Q. Now if that was on July 17th do you remember a week or ten days before that some trouble that was had down at the high tension line one evening?
A. Where was that at?
Q. At the high tension line down by the school house there? A. Yes, sir.
Q. Who were you with? Were you with Harry Dunlap?
A. Yes, sir.
Q. What were you doing with Harry Dunlap?
A. We went out there watching the line and some fellows came up there and we taken one of them into camp.
Q. Had anything been done there before that?
A. Yes, sir. The wire had been burned in two.
Q. How long before?
A. Just a short time, a night or so before that.
Q. What was that high tension line, what did it supply?
A. It supplied the lines around the mines and the [gan] engine with the power.
Q. Describe a little more in detail what happened there when the crowd bunched up around the high tension line?
A. Well, sir, we stopped in the shade there by a small bush and two fellows came up towards the post where this line were on it [snd] there was a dog spied us. There was several more men around there in the road.
Q. How did you happen to come out from behind the bush?
A. The dog made a rally that way and two of these men started down towards us and we stepped out of the light.
Q. What did you do then?
A. Hollered at them and one of them run away and the other one stopped.

2130 Q. Were any shots fired? A. Yes, sir.
Q. Who fired them? A. I dont know who they were.
Q. Did you or Harry Dunlap shoot? A. No, sir.
Q. What did you do with this man that stopped?
A. Carried him down to the camp where the marshals were.
Q. Whom did you meet at the gate of the camp?
A. Cooper Langford.
Q. What did you do with this man?
A. We stopped there and talked a few minutes and went on out and turned him over to the marshal.
Q. Whom did you turn him over to? Do you know who the [marhsls] were that were there at that time?
A. I know part of them, not all of them. I know their faces but not their names. Jim Holt was there at that time.
Q. You dont know which marshal it was you turned this man over to?
A. Best of my remembrance, it was Jim Holt we was talking to.
Q. Did you come up to Fort Smith to testify in the contempt [proceddings] before Judge Youmans? A. Yes, sir.
Q. Do you remember one day when you and Harry Dunlap were coming up to Fort Smith to testify and you got on the train at Montreal and there were some men on that train and you had some trouble with them? A. Yes, sir.
Q. State what occurred at that time.
A. He was coming here to attend court. Jim Slankard, Sandy Robinson and some more fellows were on the train at the time we got on.
Q. What did you hear them say, if anything?
A. Heard them cussing the scabs down there. They wasn't talking direct to us but to each other and we understood their conversation.
2131 Q. Whom did you hear talking?
A. Slankard and Robinson both.
Q. Do you remember the Sunday night before the big battle down there, do you remember any trouble that occurred over in Frogtown? A. Yes, sir.
Q. What did you hear that night?
A. Heard some shooting over there.
Q. What did you do when you heard that shooting?
A. I was in bed when the shooting first taken place, and I got up and walked around the mines and out over the property there.
Q. About what time did the shooting first take place.
A. The best I [remembe] it was between 8 and 9 o'clock the first shots were fired.

Q. Were any other shots fired after that?
A. Yes, sir, later on in the night.
Q. What did you do that night?
A. I watched around the mines there.
Q. Whom do you remember when you all got up when the first shots were fired—I just want those that you actually remember seeing there?
A. I saw Jim Prince and Bill Young. Harry DeMoss I believe was with us, the best I remember.
Q. Anyone else? A. John Shaleen.
Q. Is that all you can remember?
A. Yes, sir, that is all I can remember right at the present time.
Q. You have named four or five. Were there others around there in the case? A. Yes, sir.
Q. About how many men were there in the camp that night?
A. There was between 20 and 25 men around.
2132 Q. Did you miss any of them out of the camp?
A. No, sir.
Q. Did you know of anybody going over into Frogtown and shooting the place up? A. No, sir.
Q. Did you ever go up there yourself? A. No, sir.
Q. Either this Sunday night or any other night?
A. No, sir.
Q. Did you ever hear any of the men say that they had been over there? A. No, sir.
Q. Coming down to the day of the battle, what did you do on the morning of the battle?
A. I was sent out to run the telephone line early that morning; they couldn't get service over it and was sent out to see whether the line was cut down.
Q. With whom did you go out? A. Fred Eustice.
Q. Where did you go? A. Midland.
Q. Did you on the way go up through No. 4 boarding house? A. Yes, sir.
Q. What did you see up there?
A. Didn't see anything as I went out.
Q. Did you see anything at any time?
A. Yes, sir, as I started on return back to the camp I seen quite a number of men around there.
Q. Around No. 4 camp? A. Yes, sir.
Q. Were they armed? A. Yes, sir.
Q. All of them?
A. Yes, sir; I seen maybe three or four in the crowd that was not armed.

Q. About how many were there in the crowd?
A. I estimate something over a hundred of them in the crowd.
Q. Did you know any of them? A. No, sir.
2133 Q. Did you find any trouble on the telephone line?
A. No, sir.
Q. Where did you go the day of the battle?
A. I laid over there in a corn field on the creek bank until late in the evening.
Q. Could you hear the shooting? A. Yes, sir.
Q. Did you see anybody during that day that you knew?
A. Not until the battle were about all over, some of our men came by.
Q. [What] did you go to get away from that part of the country?
A. Came up through the woods to Midland to where Mr. Sylesberry lived and then we taken to the mountains there.
Q. Did you come back to Fort Smith?
A. Yes, sir, the next day.
Q. What time did you get in here?
A. About ten o'clock.
Q. Did you walk all the way?
A. No, sir, we caught a train at Montreal.
Q. You said that a little while before you and Harry Dunlap went down to the high tension line that night, a few days before the wire had been burned out that day?
A. Yes, sir.
Q. Did you see it, or see it after it had been burned?
A. Yes, sir.
Q. What happened, if you know?
A. The best I could tell there had been a chain of same description thrown across these two wires and made a short circuit and burned them in two.
Q. Have you had a good deal to do with electricity?
A. Yes, sir.
Q. And that was why you were sent out? Yes, sir.
2134 Q. Where was the wire broken, how far from the pole?
A. It looked to be about 20 feet from the pole.
Q. Who fixed that break, do you know?
A. No, sir; the Light & Power Company fixed it. I don't know who they were.
Q. In any of these troubles that you had with these parties, these crowds at Midland station or Prairie Creek station around the train, did you, or did you see any other of the company men start any trouble with these men?
A. No, sir.

Q. Did you do anything that would excite them or provoke them to throwing rocks, or anything of that kind?
A. No, sir.
Q. Were you, or did you see any of the company men at any time the aggressor in any of these troubles?
A. No, sir.
Q. Do you know whether they were hoisting coal there just before the battle? A. Yes, sir.
Q. How much had they hoisted?
A. Hoisted a part of two days.
Q. And there were some loaded coal cars there?
A. Yes, sir.
Q. When are you leaving Fort Smith?
A. Tonight at 11:20 I believe the train leaves here.
Q. You are at our disposal, or at the disposal of counsel for the defendants until eleven o'clock tonight?
A. Yes, sir.
Q. And where are you going when you leave here?
A. Nogales, Arizona."

2135 Cross-Examination

Mr. Warrum: We will omit the first five questions.

(Reading.)

"Q. What were you doing prior to your entering into the service of the Bache-Denman interests on May 6th?
A. Coal miner.
Q. At what point?
A. At the Pennsylvania Mining Company, Jamestown, Arkansas.
Q. That is in Johnson County, is it? A. Yes, sir.
Q. Did you work regularly for them?
A. Well, I worked there some, and other places around.
Q. How long had you worked for them before May 6, 1914?
A. Been working there off and on a little better than a year.
Q. Steady employment or just occasional?
A. Just occasional.
Q. Was that a union or non-union mine.
A. Non union.
Q. Where did you work before that?
A. Worked some in Colorado.
Q. How long in Colorado?
A. Worked two days and a half.
Q. At what point? A. Burma, just above Ludlow.

Q. You worked there only two days and a half?
A. Yes, sir.
Q. Is that a non-union mine? A. Yes, sir.
Q. Where had you been employed before that?
A. Jamestown, Arkansas.
Q. How long had you been working at Jamestown, Arkansas, before you went to Colorado?
A. About five months.
Q. What year would that be in now?
A. 1913 I went out there.
Q. Where did you work before that?
A. Worked on a farm.
2136 Q. That was the beginning of your coal mining?
A. No, sir, I had worked some at Spadra, some five or six years before that.
Q. Where had you worked in March and April of 1914?
A. Worked in Jamestown, Johnson County.
Q. How long did you work in April, 1914?
A. I don't remember, sir, just how long.
Q. Did you work the whole month?
A. The majority of it, yes, sir.
Q. Most of the month you were worked at Jamestown, most of the month of April. How about the month of March?
A. I don't remember what I was doing the month of march.
Q. When did you first come up to Prairie Creek?
A. May.
Q. May 6th or 5th? A. 5th.
Q. That was your first visit there and you took employment the 6th? A. I worked the night of the 5th.
Q. You really began on the evening of May 5th?
A. Yes, sir.
Q. You had not worked there before? A. No, sir.
Q. Nor been there before? A. No, sir.
Q. Never been in Prairie Creek before May 5th, 1914?
A. Passed through there was all.
Q. Was it this first period that you have testified to during which you worked at Jamestown near Clarksville in a non-union mine that you and a party of some thirty others way-laid and assaulted Frank Jarnigan, a union organizer, and beat him into insensibility, and bruised his skull?
A. Yes, sir, I was there but I didn't see any 25 or 30 others.
Q. How many were there with you?
2137 A. I seen four or five other men.
Q. Only four or five others?

A. Yes, sir, that was right.
Q. Are you sure there wasn't something like thirty?
A. I didn't see them.
Q. That was the Jarnigan that afterwards brought suit against the Pennsylvania Mining Company for damages?
A. Yes, sir.
Q. And recovered judgment in the Federal Court here for his injuries?
A. I don't know, sir; I haven't heard.
Q. You do know about the suit being brought?
A. Yes, sir, I know suit was brought before I left here.
Q. Now how long did you work at No. 4 Prairie Creek?
A. I worked there off and on from the time I went there up until the 17th of July.
Q. Where did you go then?
A. I went back to Jamestown.
Q. Did you resume coal mining at Jamestown then?
A. Yes, sir.
Q. How long did you work there?
A. I worked there till 1915.
Q. Until 1915? A. Yes, sir, up until in July.
Q. Then where did you go?
A. Enlisted in the army.
Q. [DidIt] you go out to Colorado after you left Jamestown? A. Yes, sir, I went out there.
Q. What did you do out in Colorado?
A. I worked at an ore mine out there.
Q. As a miner or guard?
A. Miner and electrician.
Q. You are a married man, are you not?
A. Yes, sir.
Q. Where was your family living on May 6th, 1914?
A. At Jamestown.
2138 Q. Did you take them with you over at Prairie Creek?
A. Not at that time, no, sir.
Q. Did you later, before July 17th? A. No, sir.
Q. What date did you take them over there?
A. They came over there on a visit and only stayed a day and night and went back.
Q. They just visited you? A. Yes, sir.
Q. And still kept their home at Jamestown? A. Yes, sir.
Q. When you went to Colorado did you take them with you? A. No, sir.
Q. You joined the army on July 28, 1915?
A. I applied for enlistment on that date, the best I remember.

Q. I see in this typewritten copy of your examination this morning which has been handed me: "When did you volunteer in the regular army?" and the answer is "On the 28th day of [Jully], 1915". "Q. Are you sure it was 1915, Wasn't it July a year ago? A. No, sir. "A. A year ago this last July". I wish you would state now when it was you did join the regular army, was it 1915? I withdraw that question just a moment. You came back from Prairie Creek on the 17th or 18th of July, 1914? Is that right? A. Yes, sir.

Q. How long did you remain at Jamestown?

A. I remained there until I enlisted in the army.

Q. How long would that be? A. One year.

Q. Then you enlisted in the army in July, 1915, didn't you, as you first testified to?

A. Yes, sir. This last past July a year ago I enlisted in the army.

Q. How long did you remain at Jamestown when you
2139 went back in July 1914, before you enlisted?

A. About a year.

Q. About a year? A. Yes, sir.

Q. You were married at the time, were you not?

A. Yes, sir.

Q. Have children? A. One.

Q. Had you deserted them before you enlisted in the army?

A. Yes, sir; she had me rather."

Mr. Warrum: We will omit the next nine questions and answers. (Reading.)

"Q. Now you say when you went there on the 6th or as you now say on the evenning of the 5th of May, that you fired and worked at the mines? A. Yes, sir.

Q. Did you do any guard duty? A. Yes, sir, later on.

Q. Well, how much later on?

A. Some time after that, I don't remember just what time in May?

Q. When did your guard duty begin, what time in May?

A. It was in June before I did any guard duty.

Q. How late in June?

A. I don't remember just what time; some time in June.

Q. How many guards were there when you went on to that special service?

A. Two or three or something like that; I don't remember just how many.

Q. Don't you know that there was a great many more than two or three? A. There was at times.

Q. How many men were armed that were working at No. 4 mine? A. I don't remember just how many.

Q. Haven't you stated in here that there is about twenty? Or, state it now if you remember? Approximately?

A. No, sir, I don't believe I stated there was twenty.

Q. Well, how many would you state there was now, 2140 how many armed men?

A. I don't remember ever counting them to see just how many there was.

Q. Did you ever count the number of guns they had around there? A. Yes, sir.

Q. How many guns did they have?

A. Fourteen at one time.

Q. Are you acquainted with A. N. Berkle? A. No, sir.

Q. Do you know who I mean when I speak of Berkle?

A. No, sir.

Q. Do you remember the occasion when you with some other guards of the Coal Company arrested a man on the public highway and brought him to your camp and put him under guard and next morning brought him to Fort Smith and then turned him loose?

A. We didn't arrest any man on the public road.

Q. Do you mean to testify that you didn't arrest any one or took anyone in custody on the public highway while you were serving as a guard at this No. 4 Prairie Creek mine?

A. We taken a fellow down by the camp but we didn't arrest him in the public road.

Q. Where did you arrest him?

A. At the side of the road on private property.

Q. Where was he when you arrested him? How far from the mine? A mile from the mine? A. No, sir.

Q. A half a mile? A. No, sir.

Q. Well, was he a hundred rods from the mine?

A. Somewhere from three to four hundred yards from the mine.

Q. Along by the side of the road? A. Yes, sir.

Q. Was he with anyone? A. Yes, sir.

Q. Who was he with?

A. I don't know, sir, who they were.

Q. Did you arrest anyone else? A. No, sir.

Q. Did the others leave? A. Yes, sir.

2141 Q. What did you do with this particular man?

A. Taken him down to the camp and turned him over to the Marshal.

Q. Did you ask his name? A. No, sir.

Q. What did you call it when you took him down to the camp? You say that wasn't arresting him or taking him into custody. Did you just invite him?

A. I halted him. There was two of them; one of them stopped and the other one run.
Q. Do you mean to say you halted him with a gun?
A. No, sir.
Q. Did you have a gun? A. Yes, sir.
Q. Did the other guards have guns?
A. There was only one with me.
Q. Did this man with you have a gun? A. No, sir.
Q. But you halted him? A. Yes, sir.
Q. What did you tell him? A. To stop.
Q. Did you walk up to him then? A. Yes, sir.
Q. What remark did you make to him?
A. I just asked him what he was doing there.
Q. What did he say he was doing?
A. He said he was going home.
Q. Did he tell you he had been to see his sweetheart and was going home to where his mother lived? A. Yes, sir.
Q. What did you say?
A. Told him we would like for him to go down to the camp and let us see him.
Q. What did he say? A. He said all right.
Q. You ilnvited him then, to walk down to your camp?
A. Yes, sir.
Q. And he accepted your inviation to walk to the camp?
A. Me and the other fellow together.
2142 Q. [Die] he insist that he had a right to go on home?
A. Yes, sir.
Q. He insisted that he ought to be allowed to go on home?
A. Yes, sir.
Q. What did you insist, that he come with you?
A. Yes, sir.
Q. And he had no gun and you had a gun a piece?
A. Yes, sir.
Q. And so while he was insisting that he be allowed to go on home you were insisting that he go with you to the camp and you made him? A. I didn't make him.
Q. But he insisted on his right to go home? A. Yes, sir.
Q. And you insisted that he go with you? A. Yes, sir.
Q. Did you learn who he was?
A. Yes, sir, I learned what he told us.
Q. What was the name? A. Berkle.
Q. That is the man I asked you about a moment ago?
A. I suppose it is; he said his name was Berkle.
Q. Did you do any shooting on that occasion? A. No, sir.
Q. What did you do with the man when you took him down to the camp?
A. Just standing there,—left him in charge of the Marshal.

Q. Who was the Marshal?
A. Jim Holt and several of them around there.
Q. What time was this?
A. About 9 or 10 o'clock at night.
Q. What month and what day of the month?
A. I don't remember, sir.
Q. You have no recollection at all about when this af-
2143 fair occurred? A. No, sir.
Q. Was it in May or June?
A. I don't remember just when it was.
Q. It couldn't have occurred in April because you were not there in April?
A. I don't suppose it would when I wasn't there.
Q. It must have been the first part of May, June or July?
A. Yes, sir.
Q. And your recollection is that you turned him over to Jim Holt? A. Yes, sir.
Q. Then if you turned him over to anyone you turned him over to the Chief Deputy Marshal? A. Yes, sir.
Q. And Holt was the Chief Deputy at the time?

(The witness didn't answer.)

Q. Did you come to Fort Smith with him? A. No, sir.
Q. Did you ever see him after that? A. No, sir.
Q. I notice in your examination some questions about the shooting up of Frogtown Sunday night before what is called the big battle, and your answer that you remember it. Frogtown was shot up twice, was it not?
A. Not that I remember of, no, sir.
Q. This time that you are testifying about was the Sunday before what has been termed the big battle? A. Yes, sir.
Q. That is the only time you know of Frogtown having been shot up? A. Yes, sir.
Q. If there was any other shooting up of Frogtown previous to that, you are not aware of it? Is that right?
A. No, sir.
Q. How far is Frogtown from Prairie Creek No. 4 mine?
A. Something like a mile and a half.
2144 Q. How far would Frogtown be from Hartford then?
A. I don't know, sir; I was never up there; I don't know for sure. I have been [trough] there in the night on a train.
Q. Never over the road?
A. No, sir, not on the dirt road.
Q. You have been as far as Frogtown but not Hartford?
A. No, sir.
Q. When did you go to Frogtown?

A. I went there after the battle, went there with a wagon.
Q. You went there July 17th? A. No, sir.
Q. When was it?
A. Sometime after that, when they had the soldiers down there and I went back to work.
Q. You had never been to Frogtown before? A. No, sir.
Q. Were you a guard at that time? A. Yes, sir.
Q. You heard the shooting after that you say?
A. Yes, sir.
Q. And it was between eight and nine o'clock that the first shots were heard by you? A. Yes, sir.
Q. And later you heard other shots? A. Yes, sir.
Q. How much later?
A. It was off and on all during the night?
Q. What was Frogtown, a mining camp? A. Yes, sir.
Q. Was it a camp of union miners? A. Yes, sir.
Q. No non-union miners lived there, were there?
A. Not that I know of, no, sir.
Q. Do you know how many shots were fired that night?
A. No, sir.
Q. The women and children of Frogtown had to leave that place and run over to Hartford that night?
2145 A. I don't know, sir.
Q. You heard that, did you not?
A. I heard some such talk.
Q. And you heard it right at the time? A. No, sir.
Q. Was it the next day?
A. No, sir, it was a couple or three days after that.
Q. About the time of the big battle? A. No, sir.
Q. Before the big battle? A. Yes, sir.
Q. Did you hear it in a crowd of people?
A. I just heard them talking about it.
Q. Who did you hear talking about it?
A. I don't remember who it was.
Q. Was it in your camp that you heard it? A. No, sir.
Q. Where was it? A. Midland.
Q. You heard the circumstances there talked about—the shooting up of Frogtown and the women and children running over to Hartford? A. Yes, sir.
Q. And that was before the battle on the 17th?
A. Yes, sir
Q. Did they seem to be out of fix about it when you heard them talking? A. They didn't talk like it.
Q. Were they excited when you heard them?
A. They seemed to be a little bit, yes, sir.
Q. Now when you heard the first shots were you in bed?
A. Yes, sir.

Q. What time did you go to bed that night?
A. [Betwee] six and seven o'clock.
Q. Did you have night duty? How did you happen to be to bed so early? A. Yes, sir.
Q. What was your schedule of service?
2146 A. Generally got up about 4 o'clock in the morning.
Q. And guarded until what time?
A. Until eight and some times 12 o'clock.
Q. What was the regular watch for a guard, eight hours or 6 hours? A. Eight hours.
Q. The day was divided into three watches, then?
A. Supposed to be, yes, sir.
Q. Then there were—then if you served from 4 to 12, another guard would serve from 12 to 8? Is that right?
A. Yes, sir.
Q. And another one from eight to four again?
A. Yes, sir.
Q. Then there were guards that were not asleep at that time? A. Yes, sir.
Q. The other two sets of guards would not be asleep at that time? A. Yes, sir.
Q. You got up when you heard the first shots?
A. Yes, sir, when I first heard the shots I got up.
Q. Did you see any guards around there when you first got up? A. Yes, sir.
Q. Who were they?
A. Jim Prince, Bill Young, John Shaleen and Clarence Shaleen.
Q. And Henry DeMoss?
A. Henry DeMoss was one of the guards that I seen at that time.
Q. Now I am asking you who were the guards that you saw around there?
A. Jim Prince and Harry DeMoss and Bill Young.
Q. When was their guard duty fixed for, the same as yours? A. No, sir.
Q. They had been sleeping and woke up with you?
A. I don't know whether they had been asleep or not.
2147 I just seen them when I got up and stepped out.
Q. How many guards were there on your shift?
A. Four.
Q. Four on your shift and four on each shift?
A. On the day shift they only used three guards and some times two.
Q. The night shifts had four guards each and the day shift three guards and some times two? A. Yes, sir.

Q. Am I quoting you correctly? A. Yes, sir.
Q. You didn't see these other guards when you first got up? A. Not when I first got up, no, sir.
Q. You saw them later in the night, did you?
A. Yes, sir.
Q. Did you ask them what they were shooting up Frogtown for? A. No, sir.
Q. Was there any joking about the shooting up of Frogtown? A. Yes, sir, some little.
Q. Who joked about it, did you?
A. Yes, sir, for one.
Q. Who else?
A. I don't remember just who all—there was several of us bunched up there talking.
Q. Did Jim Prince and Harry DeMoss joke some about the shooting up of Frogtown?
A. Yes, sir; we were all there together.
Q. And did some of the others joke about it?
A. Yes, sir.
Q. When you were joking about it, would you in a joking way say "You fellows were over there shooting up Frogtown" and they would say something back in a joking way?"
A. No, sir, the remark they made that we would be accused of the shooting over there.
Q. Were they jokingly made or seriously?
A. Just joking.
Q. Do you remember any of the remarks?
A. Nothing more than just standing there and talking.
2148 Something was said about that place being shot up and whoever it was, says: "We will be accused of it" and commenced laughing.
Q. How many men were there working at that place at that time in addition to the guards in and about the mine?
A. About twelve or fifteen, or something like that.
Q. I will ask you if you didn't state this morning in answer to how many men were there in the camp that night, your [answere] was: "There was between twenty and twenty-five men around". Is that correct?
A. Guards and all.
Q. Guards and all there would be twenty to twenty-five men? A. Yes, sir.
Q. Had you counted them that night when you were sitting around joking? A. No, sir.
Q. When you were asked this question this morning "Did you miss any of them out of the camp?" what you meant to say is that you did not make any count, or did no figuring about it. Is that right?

A. Yes, sir, didn't count them up.
Q. Why did you say you didn't miss any of them out of the camp?
A. I seen quite a bunch of them around there.
Q. Were some of those laboring men, not guards—but the others were they jokingly accused? A. Yes, sir.
Q. All there together and all laughing about it?
A. Yes, sir.
Q. Did they have guns themselves? A. No, sir.
Q. You had a gun? A. Yes, sir.
Q. They had a gun there for each man, did they not?
A. No, sir not for each man.
Q. How many guns did you see them have?
2149 A. I don't know just how many they had all the time.
Q. Did they have 25 guns there in the camp?
A. There might possibly have been that many, yes, sir.
Q. What kind of guns were they?
A. Some of them pistols and some of them winchesters.
Q. What they call high power riflees down here? Is that right?
A. Yes, sir, high power rifles.
Q. In addition to the pistol they had some 25 guns, did they not? That is rifles? A. Besides the pistols?
Q. Yes. A. I couldn't say whether they did or not?
Q. Did the guards carry pistols too, did they?
A. No, sir.
Q. Now was there any talk next day about the shooting up of Frogtown? A. No, sir.
Q. All the joking was that night? A. Yes, sir.
Q. About what time was this?
A. Backwards and forth all night, because we didn't sleep any more.
Q. Did you go back to bed? A. No, sir.
Q. Did you stay up all that night? A. Yes, sir.
Q. Why didn't you go back to bed?
A. Didn't feel like going to bed; didn't know but what they would come over where we were.
Q. You thought the people that shot up Frogtown might come over there and there was a great deal of excitement.
A. No, sir, there wasn't a great deal of excitement.
Q. Then it was mere caution? Is that right?
A. Yes, sir, they had been threatening to shoot the place up and we didn't know but what they would.
Q. They threatened to shoot the place up after the
2150 shooting up of Frogtown? A. Before.
Q. And you heard of this shooting up of Frogtown when you were over at Midland? Is that right?

A. I just heard them talking?

Q. Did you hear anyone talking about the [felling] over at Hartford? A. No, sir.

Q. You don't know that the citizens over there were guarding for an attack against your camp, from Mine No. 4?

A. No, sir.

Q. How did you happen to go to Prairie Creek on March 5th? Were you sent for? A. No, sir.

Q. You are a professional strike breaker are you not?

A. No, sir.

Q. Or were at that time?

A. Well, I followed it some.

Q. Did you get a notice then from Mr. Bache or Mr. Finley, or Mr. Gulley, or anyone in charge of the mines there, written to you at Jamestown to report for duty?

A. No, sir.

Q. Well, did it come through any dective agency?

A. No, sir.

Q. Who did you get it from?

A. Mr. Triggs were down there and he was talking to a man about some work.

Q. Mr. Triggs came down to Jamestown? A. Yes, sir.

Q. And he told you you could get employment at Prairie Creek No. 4? A. Yes, sir.

Q. When did he tell you this? A few days before you came up? A. Yes, sir.

Q. When would you say it would be, about the first of May?

A. Yes, sir, about—on Friday, I believe.

2151 Q. And you knew nothing about the chances for employment until Mr. Triggs told you a few days before you came up?

A. He wasn't exactly telling me; he was telling an old friend of his and I overheard it.

Q. You heard Mr. Trigg telling a friend of yours at Jamestown that there was an opportunity to get employment at Prairie Creek? A. Yes, sir.

Q. And that was how many days before May 5th when you went there?

A. It was on Friday before I went down there on Sunday.

Q. Then that would be two days before? A. Yes, sir.

Q. And apart from that you didn't know anything about the mines at Prairie Creek in the mine, nor the situation there at all? A. No, sir.

Q. And previous to that time you had done some work as a professional strike breaker?

A. I have been in one or two different places where they had strikes.

Q. Were you a professional guard also? A. No, sir.

Q. This was your first work at a guard?

A. I had guarded a shift or two at Jamestown.

Q. Were you a guard when you and those five or six other men waylaid and assaulted Frank Jarnigan, the union organizer? A. No, sir.

Q. Just a miner? A. Yes, sir.

Q. Was there any guards in that crowd? A. No, sir.

Q. They were just simply non-union miners in that crowd that assaulted Frank Jarnigan?

A. They were non-union miners. Didn't any of them assault him except myself.

Q. You are the one that really did the assaulting?

2152 A. Yes, sir.

Q. You got acquainted with two guards at that time that you mentioned in your examination this morning, Bailey and Barnes? A. Yes, sir.

Q. Now Bailey was arrested over there was he not, for assaulting a young lady? You remember that transaction?

A. Yes, sir.

Q. When was that? In June or July?

A. I don't remember when it was.

Q. Was it Bailey or Barnes? A. Bailey.

Q. It was Bailey or Barnes? A. Bailey.

Q. Well, he was fined, was he not?

A. I don't know, sir.

Q. You were arrested, were you not? A. Yes, sir.

Q. Were you arrested by a constable? A. Yes, sir.

Q. In what town was it? A. Midland.

Q. Who was the constable?

A. Constable and city marshal and a deputy; there were 3 of them.

Q. There were three police officers arrested you?

A. Yes, sir.

Q. What were you charged with?

A. Carrying concealed weapons.

Q. And you had your pistol and rifle with you I suppose?

A. Had my rifle; didn't have any pistol.

Q. Were you fined? A. Yes, sir.

Q. Did you ever arrest or take into custody anyone down there besides Mr. A. N. Berkle? A. No, sir.

Q. He is the only man that you stopped you or any other crowd with you that you know of? A. Yes, sir.

Q. That you stopped and took to the camp?
A. Yes, sir.
2153 Q. And exercised any restraint over, is that right?
A. Yes, sir.
Q. Did you keep him there that night?
A. He stayed around there, yes, sir.
Q. Did he stay willingly? A. Yes, sir.
Q. Didn't he tell you that he wanted to go home?
A. He did before we went in there.
Q. Didn't he tell you after he got there that he wanted to go home? A. Not me, he didn't.
Q. Did you hear him tell anyone else?
A. I don't remember if I did.
Q. He was living with his mother, he told you, his aged mother and that she was alone and begged permission to phone her and that was refused him? Is that right?
A. I don't know anything about the [phonog]; I [dind't] have anything to do with it.
Q. Didn't he ask that you allow him to go to his house?
A. Yes, sir.
Q. Didn't he ask that he be allowed to phone?
A. He didn't ask me.
Q. You do know that he asked to be allowed to go home?
A. Yes, sir.
Q. But as to the phoning you don't know anything about that? A. No, sir.
Q. Did you have a pistol as well as a rifle on that occasion? A. No, sir.
Q. Do you remember the occasion of the pistol being put up against his head on the outside of the tent?
A. There wasn't any put up there that I know of.
Q. I believe that is all."

2154 Mr. Hull (reading):

Redirect Examination.

Q. You have testified that you went to mine No. 4 on May 5th or May 6th. If the so-called riot when the men met at the school house and marched to the mine was on April 6th isn't it true that you went to the mine on April 5th instead of May 5th?"

Mr. Hull: Do you want to press your objection?

Mr. Warrum: No.

Mr. Hull (reading):

"A. It was May that I went to work there.

Q. You remember distinctly seeing the crowd meet at the school don't you? A. Yes, sir.

Q. And you remember the beating up of Barnes and Bailey at the ropes? A. Yes, sir.

Q. You remember when Looper and Sylesberry were drawing the fires there? A. Yes, sir.

Q. You have testified to all of that this morning, haven't you, Mr. Cheek? A. Yes, sir.

Q. Then if that all happened April 6th, instead of May 6th, and you saw it, you must have been there on April 6th, wasn't you? A. I was there at the time of this riot, I was there.

Q. So you must be mistaken in saying that you went there the first of May?

A. I was mistaken when I said that it was in May. It was in April that I was there.

Q. Now can you tell us any more definitely when it was that you volunteered in the regular army? Was it a year ago this last July or two years ago?

Was it a year ago or two years ago this last July?

2155 A. One year ago this last July.

Q. You were asked on cross-examination if you did any shooting the night that you took Nick Berkle down to the mine and you said no. Was there any shooting done there?

A. Yes, sir.

Q. Who did it?

A. I don't know who they were; some of the crowd that stood out where he came from.

Q. Where had you seen Berkle and these other men before they came over to where you were?

A. Out there at the post where the electric power came from.

Q. Just those two out there? A. Yes, sir.

Q. Where were the others at that time?

A. Across opposite the public road from the school house in the bushes."

Mr. Warrum: We will waive the reading of the recross examination.

2156 WILLIAM VANCE WOMACK, called as a winess on behalf of the plaintiffs, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. What is your full name? A. William Vance Womack.

Q. What is your profession? A. Minister.

Q. You have a church here in Fort Smith? A. Yes, sir.

Q. How long have you been here?
A. Three years, the last of this month.
Q. What denomination?
A. South Methodist, Dodson Avenue.
Q. Were you in 1914 living in Hartford? A. Yes, sir.
Q. You had two parishes there, I believe?
A. Hartford and Midland.
Q. Do you remember seeing some of the Bache-Denman employees at Midland loading some goods one day?
A. Yes, sir.
Q. Along in the spring of 1914? A. Yes, sir.
Q. Will you state what you saw at that time?
A. I had gone up to the Midland Valley depot to see one of my members, who was agent at the depot, and when I got there, he was out in a car, seeing to the loading of some stuff into a wagon, and I waited for him, to get an idle moment to speak to him, and I found that three employees of the mine at Prairie Creek were loading some stuff, and some bread boxes. They finished their task and started off, and just as they started off, before they started, a crowd of men had gathered in the street out in front of them, and when the wagon started out, I saw one or two of the men pick up rocks and begin to throw at the wagon.
2157 Q. Do you know any of those men?
A. I only know one, I think, Foster Bean, was the only one that I recognized.
Q. Do you know where he worked?
A. No, I don't, he was one of the union miners, there, but I don't know what place he worked at, and the wagon drove off down the road about 50 or 75 yards and stopped, and one or two of the men got out to tie the boxes on the wagon, and the union miners continued throwing at them, and one of the men stepped around to the front, and took a gun out from under the seat, if I remember correctly, and stepped back towards the rear of the wagon, and stood there for a few minutes.
Q. Point the gun at anybody?
A. No, sir, he did not, he held the gun down, possibly about his waist, or lower, with the muzzle pointing toward the ground.
Q. Then what happened?
A. Then the city marshal, and one or two other officers, I don't remember who they were, came around the store and demanded them to stop, and put them under arrest, and I don't remember anything further that happened at that time.
Q. Did you see there some officers arrest any of the rock throwers? A. No, sir.

Q. Were you at Hartford the night before the battle of July 17th? A. Yes, sir.

Q. What were the conditions in the streets of Hartford that night?

A. Very restless. I was not on the streets a great deal myself, but I knew the conditions were torn up considerably.

Q. Now, on the morning of the battle, do you know whether the stores were generally closed in Hartford?

A. That was my impression.

2158 Q. Do you know why they closed?

A. In order for the men to go to Prairie Creek, so I understood.

Q. Did you hear any threats made that the merchants did not close their stores?

A. I didn't hear any threats made, but I heard one man say if they didn't close their stores it would mean the ruination of their business.

Q. Did you see bunches of men with guns that morning?

A. No, I can't say that I saw any bunches, I saw two or three men with guns.

Q. Did you see a procession of men going and coming to and from Prairie Creek?

A. There were a good many people going back and forth. I didn't live on the main road to Prairie Creek, however, but there were scattered bunches going back and forth all morning.

Q. You say you saw two or three with guns?

A. Yes, sir.

Q. Do you know their names? A. Yes, sir.

Q. Who were they?

A. Ernest Nein, passed with a rifle, coming from that direction.

Q. Do you know whether that is the same Ernest Nein that pleaded guilty here in the Federal Court to a criminal charge?

A. I think so.

Mr. Grant: We want to object to that, to the witness giving his conclusion, because the record speaks for itself, and I am sure when you examine the record you will find that it speaks different from this witness.

The Court: This witness is asked that question for identification, the answer may stand.

Mr. Hull: I don't want to assume anything that is
2159 true.

The Court: I understand.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Q. Who was the other man, Mr. Womack?
A. My neighbor, Mr. Mealer.
Q. Do you know his first name
A. Ed Mealer.
Q. Do you know where he worked?
A. He worked at Central, there in town.
Q. Central No. what?
A. I couldn't be positive as to the number. It is their largest mine there at Hartford.
Q. Is that the Central Coal & Coke Company's mine.
A. Yes, sir.
Q. That is a union mine? A. Yes, sir.
Q. Where was he going, and what was he doing?
A. He went in the direction of Prairie Creek.
Q. With a gun? A. Yes, sir, with a shotgun.

Cross-Examination

By Mr. Warrum:
Q. You were living in Hartford in July, 1914?
A. July 1914, yes, sir.
Q. How long had you lived there?
A. I moved to Hartford the first of December, 1911, I believe it was.
Q. And you lived there for [som] three years?
A. Yes, sir.
Q. Did you have a church there? A. Yes, sir.
Q. And you say that the night before the 17th the people were restless in Hartford? A. Yes, sir.
Q. Meeting around on the streets, crowds of them?
A. There was general turmoil all around there, I was
2160 not on the streets much.
Q. The impression you got of the restlessness was the crowd that gathered, from what you did see?
A. Yes, sir, and from what I heard also.
Q. Was that the first night that you noticed any restlessness among the people at Hartford with reference to the trouble at Prairie Creek? A. I don't remember that.
Q. Do you remember the Sunday before July 17th, or rather during the night of the Sunday, that a number of people came in from Frogtown and reported that the town had been shot up?
A. I remember the report, but I don't remember as to what day it was.
Q. Did you see any of the people that came in?
A. No, sir.

Q. Your attention was not called to any of the people that come from Frogtown to Hartford that night? A. No, sir.
Q. Did you hear any talk about it the next day?
A. Yes, sir.
Q. And that was Sunday before this July 17th?
A. I couldn't say what day it was, I don't remember.
Q. Well, it was about a week before? A. I presume so.
Q. And a few nights later there was a similar exodus from Frogtown to Hartford, was there not?
A. I don't remember as to that.
Q. You don't remember as to that? A. No, sir.
Q. Was that the occasion of some of the restlessness that you speak of in Hartford? Comment on the shooting up of Frogtown, and driving the people to Hartford, did that
2161 cause a part of that restlessness?
A. There was more or less restlessness there at that time, and for several days.
Q. And for several days after that?
A. Yes, sir, I couldn't say how long before, I don't remember.
Q. They threw out guards around Hartford, to prevent any shooting up of that town, did they? A. I think so.
Q. Do you remember when that was? A. No, sir.
Q. Did you talk with any of the people that guarded the town? A. No, sir.
Q. Did you see any of them that were guarding the town?
A. No, sir.
Q. You just heard that they were watching the town?
A. Yes, sir.
Q. Now was this feeling of restlessness confined to the union miners, or was it shared by the people generally in the town? A. Shared by the people generally.
Q. And how large is Hartford?
A. It is a place of about 2500.
Q. Now, apart from the statement—by the way, who was it told you that the stores had orders to be closed?
A. One of the dry goods merchants there.
Q. He told you himself?
A. Yes, sir. It was after the procession had gone there, I was talking to him about it, and he said that they had to do it out of self protection.
Q. Did he go out to Prairie Creek?
A. I understand that he did.
Q. On July 17th? A. Yes, sir.
Q. And other merchants and business men went out
2162 the morning of July 17th, did they not?
A. So I understand, I didn't see them go.

Q. That was the information that you got in connection with the other information that you have testified about?
A. Yes, sir.
Q. And they were there from this town of Midland that you have spoke about, too, were they?
A. I heard they were.
Q. There were a good many rumors about the conduct of the guards at Prairie Creek circulated in that vicinity, was there not?
A. You could hear anything.
Q. That is true, and I am not asking you about the truth or falsity of the rumors, but were there rumors there?
A. Yes, sir.
Q. About them insulting women and girls on the highway? A. Yes, sir.
Q. And arresting people on the public roads?
A. Yes, sir.
Q. And drawing their guns on people? A. Yes, sir.
Q. And making target grounds of the farms down there and shooting over the fields?
A. I don't know that I ever heard that.
Q. Did you ever hear, in talking of the conduct of these guards, and the condition that prevailed down there, and the conduct of the guards, the reputation of the women that were in the camp? A. No, sir.

Redirect Examination

By Mr. Hull:

Q. Mr. Womack, you said that this merchant told you
2163 that they had to close their stores in self protection.
Did you gather from that this was protection from the 25 non-union men in Mine No. 4, or protection from the union?
A. It meant, as I inferred from him, that if they did not go as the union men had asked them to go, I understood him that the union men had come to him that morning and asked him to go with them in the procession that afternoon, and he said, "We had to go or our business was gone", since their business depended largely on the union men.
Q. As a citizen of Hartford did you have any real fear or apprehension that Hartford was going to be shot up by the 25 or 30 men at Mine No. 4? A. No, sir.

Recross Examination

By Mr. Warrum:

Q. When you say you inferred that, can you now give the jury the statement or the conversation that this merchant had with you from which you drew that inference?

A. No, sir, after a period of this time, I cannot give the conversation. He was one of the members in my congregation, one of the stewards, and I [remembe] it that way, in talking over the situation, but I don't remember what he said or what I said.

Q. He went out that morning to Prairie Creek?

A. Yes, sir.

Q. And you got the inference from that that he was under duress, not only to close his store, but to go out and take a part in the battle? A. Yes, sir.

(Witness excused.)

2164 WILLIAM JESSE GOATCHER, called as a witness on behalf of the plaintiffs, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. What is your full name, Mr. Goatcher?

A. William Jesse Goatcher.

Q. Where do you live, Mr. Goatcher?

A. I live down close to Poteau.

Q. What is your occupation? A. Farming.

Q. Where did you live in 1914?

A. I live down on the Bond place, below Midland, between Midland and Huntington.

Q. Is that near No. 6 Central?

A. Yes, sir.

Q. On April the 6th, the day of the first trouble at Prairie Creek No. 4, do you remember seeing Will Shrum?

A. Yes, sir.

Q. What did he say?

A. I was plowing Irish potatoes that morning, and he came by and wanted to know,—first, I heard a horn, a band playing over near No. 6, and he came by, and I asked him, "What is that?" And he said, "We are going over to No. 4 this morning", and he said, "Aint you going?" And I said, "No, I have to farm, I want to make some potatoes". And he went on up the road toward home.

Q. Do you know where he worked?

A. I think he worked at No. 6 Central.

Q. Did he say what they were going to do at No. 4?

A. No, sir, he never said.

Q. Did he go over that way?

A. He went on up that direction; he lived up that way, on the road that goes toward there.

Q. On the day after the riot, do you remember a man
2165 named Ed Baker coming to you?
A. Yes, sir, on the Sunday afterwards.
Q. What did he do and say?
A. He was there and stayed pretty near all day at my place; he lived about a quarter from me, and he had on a pair of red shoes, that had blood on them, and he wanted to know if he could trade them to me, and I said, "No, where did you get that on them", and he said, "I kicked Looper's teeth out over at the mine the other day."
Q. Do you know where Ed Baker worked?
A. At No. 6 Central.
Q. Did he say anything about himself and Joe Overman and others?
A. Yes, sir, he said himself and Joe Overman and two men from Huntington beat up Sylsberry and Looper.
Q. You stated where Overman worked?
A. Yes, sir, No. 6 mine.
Q. Do you remember hearing Pete Stewart making a speech in front of McGee's drug store some time in May?
A. I heard a man talking there.
Q. In front of McGee's drug store?
A. Yes, sir.
Q. What did he say?

Mr. Warrum: There has been no identification of the man that was talking.

Mr. Hull: I think that will be connected up by other testimony. It is already in the record that Stewart made a speech there.

The Court: It should be more definite in time.

Q. Do you know when that was?
A. No, sir, I couldnt say.
Q. Do you know anyone else that was there in the crowd?
A. George Howard were present; I was going to the post office,—Mr. Monnett and I were going hunting, and George Howard stopped me.

2166 Mr. Hull: George Howard's deposition has already been taken, and I think he testified about the speech. If the substance of the speech that he testified to is the same as this, is that sufficient identification?

The Court: Yes, if you can identify it by any other witness.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Q. Do you remember any others that were there?
A. No, sir, I dont; there was quite a crowd there, I didnt pay any attention, I wouldnt have paid attention to George, if he had not stopped me.
Q. Do you know a man named Abe Cunningham?
A. Yes, sir.
Q. Is he a union miner? A. Yes, sir.
Q. Did he tell you who this man was that made the speech?
A. He said that night it was Pete Stewart.
Q. State what this man said?
A. He said he was there to see something about putting the scabs out of there. I dont remember the rest of it; we had quite a conversation.
Q. Do you remember anything about guns?
A. No, sir, I dont. I cant remember it, it has been so long.
Q. Did you sell meat and other produce to a man named Buck Tharel? A. Yes, sir.
Q. Do you know where Buck Tharel was selling that product? A. Yes, sir.
Q. Did Verge Hesterly and Cunningham have some conversation with you about where you were selling your goods?
A. Yes, sir, they said I was selling it to the scabs, and I said I was not, and they said I was selling it to Buck Tharel,
and if I didnt quit it that they would not patronize
2167 me. They were buying goods from me, vegetables from me, and also John Fiddlinghouse.
Q. Where did John Fiddlinghouse work?
A. No. 6 Central.
Q. And Verge Hesterly?
A. He worked there, too.
Q. A few days prior to this speech that you heard in front of McGee's drug store, did you have a conversation with Fred Moton? A. Yes, sir.
Q. What did he say to you?
A. He was talking about,—I dont remember just how it were, though, but anyhow, I cant think of the other fellow's name, it has been so long, I know the man but I cant call their names.
Q. What did he say?
A. He was talking about kicking the fellow Searles and he said, "All he lacked of flying was because he didnt have wings to get away."

Q. What did you say to those men that told you they would drop you if you kept on selling to Buck Tharel?

A. I told them they could not hurt me very bad, that I had about sold out to Buck the potatoes, and as far as the beef I sold out to him, I dont know what he is doing, he is running a butcher shop.

Q. Did old man Shelley say anything to you then?

A. Yes, sir, he said I would have to quit it, I would have to cut it out or they would drop me.

Q. Do you remember one night on your way home from Midland being stopped by Charley Ferguson and Jim Lee?

A. Yes, sir, they asked if old man Sylsberry was stopping at my place, or hanging out there, and I told them no.

Q. About when was this, about?

A. I dont remember, it was a little after the trouble occurred.

Q. What did they say?

A. I asked them,—I said, "He is hanging out there,
2168 he is not hurting anything," and I said, "You fellows would not do anything to him, would you?" And they said, "What we would do would be a plenty".

Q. Do you remember what they,—who was Charley Ferguson?

A. He was a fellow that lived there on the corner.

Q. Where did he work? A. No. 6 Central.

Q. Do you remember overhearing a conversation on the street one day at Midland between Andy Kyle and Ed Baker?

A. Yes, sir.

Q. What was that?

A. They were talking about seeing a fellow named Gunn, or something about hiring him a mule on the night of the riot.

Q. Who was Andy Gunn? A. A union man.

Q. Did Ed Baker hire a mule of you that night?

A. Yes, sir, he did the next day to plow.

Q. What did he say to you about your mule?

A. That he was going to let this man Gunn have the mule to work to a buggy, with a horse.

Q. What did he say he was going to do?

A. To go around to see some of the miners, to see if they would carry guns out.

Q. Did you remember negotiating with Buster Moore at No. 4 in regard to water hauling?

A. Yes, sir.

Q. Did you have some conversation with union men?

A. Yes, sir, Buster said he thought they could get somebody to haul water with out having three or four men to go

with them, and he asked me about it. I said I didnt know whether it would be safe, that I never went into anything to have trouble, but all I wanted was just wages out of it, that was what I was working for, and he told me what he would do, and that night or the next day or two, some
2169 of them found it out, that I was going to work over there.

Q. Who were they?

A. Verge Hesterly and Sam Moore and Charley Ferguson, and John Fiddlinghouse, and they stopped there one morning and talked to me about it.

Q. What did they say to you about it?

A. They said I had better not do it, "You are liable to get killed, or be burned out, and I would not do it at all".

Q. Do you remember on the morning of July 17th, you remember the day of the battle? A. Yes, sir.

Q. About seven o'clock that morning what did you see?

A. I was fixing a pasture fence around, to keep the cattle out, and right at the upper corner of the pasture, I heard some men talking, and I seen some men coming along the roadway that runs across the pasture on the west side, and I just stopped, and I seen seven or eight men in a bunch.

Q. Who were they?

A. I didnt know but three of them, Verge Hesterly and John Fiddlinghouse and Sam Moore.

Q. Did they have guns? A. Yes, sir.

Q. Which way were they going?

A. South, toward Prairie Creek.

Q. Toward Mine No. 4? A. Yes, sir.

Q. Did you later that day see Carrie Crumpton and Dutch John?

A. Yes, sir, I went over to No. 6 with Will Taylor after a cow he had over there, and just as I turned the corner at No. 4 I met Dutch John, and asked him about the cow, and he said she run up back that way. There was quite a bit of shooting up at No. 4, and he said, "You cant go up that way, they are having trouble up that way, and my advice is not to go that way", and I said, "The cow is up here," I seen the cow at the present time.

2170 Q. Do you know where Carrie Crumpton worked?

A. I don't know whether he worked at a mine.

Q. Do you know where Dutch John, whether he was a union miner? A. I couldn't say.

Q. On the afternoon of the 17th, on the creek bottom, what did you see?

A. I seen quite a bunch of men coming down the creek, and there had been quite a bit of shooting down the creek, and I hollered and told them not to shoot too low, the rabbits were down that way, and they went on up the road, and by Ed Baker's house, and got out on the road.

Q. Who were those men?

A. John Fiddlinghouse and Charley Ferguson and Sam Moore.

Q. Were they all union men? A. Yes, sir.

Q. That night at Midland did you see some of them again, and did they ask you about Buster Moore?

A. Yes, sir, I seen some of them that night.

Q. What did they say to you?

A. Asked me if I seen anything of them, and I told them I did not.

Q. What did they say they wanted you to do?

A. I don't remember.

Q. Do you know a man named W. H. Cluck? A. Yes, sir.

Q. Is he a union miner? A. Yes, sir.

Q. Did you have some conversation with him sometime after the battle?

A. Yes, sir, quite a while afterwards; he lived down there close to me. He came to me on Sunday morning, and wanted me to help him tie up oats.

Q. When was that? A. Year before last.

Q. What did he say to you?

A. He said he had to get them tied up that day, he had to go to Hartford on Monday morning, that he was the clerk, or the man that paid out the aid money to the union
2171 miners, and they had been sending the money to him and he put it out, and I asked him why they didn't send it to someone other than him, that would be closer, and he said he was the clerk and they sent it to him, and we talked on, I don't remember what the conversation was, but we were talking about the shooting up of Frogtown, and he said that him and Jim Slankard crawled up a ravine, and "we shot into Frogtown and caused a disturbance, we knowed it had to be done to protect ourselves", and he said, "We used No. 10 shot guns."

Cross-Examination

By Mr. Warrum:

Q. Now, what was the name of this man that you were tying up oats with, year before last?

A. Old Uncle Billy Cluck.

Q. Spell the last name? A. I don't know.

Q. Does this sound like it: "G-l-u-c-k"?

A. No, sir, I think C-l-u-c-k.

Q. Where did he live?
A. On Oscar Tucker's place in below Cameron.
Q. In Cameron County? A. In Cameron, Oklahoma.
Q. Was he living over there?
A. No, sir, he was living on Anna Tucker's place at the present time.
Q. Where is he living now?
A. On Oscar Tucker's place now.
Q. Where was he living then?
A. On Anna Tucker's place.
Q. You knew him pretty well?
A. Yes, sir, I have known him quite a while.
Q. How many years have you known him?
A. 10 or 15 years.
Q. And he told you year before last on that occasion when you were tying up the oats,— A. Yes, sir.
2172 Q. That he and Slankard had shot up Frogtown themselves?
A. Yes, sir, he said they crawled up a ditch to cause a disturbance, because he said, "We knowed we had to do it."
Q. Did he tell you when that was done?
A. No, sir, he never said it.
Q. Do you know when he was talking about it, what transaction he was [referred] to? A. No. sir.
Q. You had not heard before that there had been a shootink up of Frogtown?
A. Yes, sir, I heard of it, but I always heard that the non-union fellows had done it, I was always talking to the other fellows.
Q. You had always heard that the non-union fellows had done it, and this was the first you ever heard that the union men did it?
A. Yes, sir, that was the first time I ever heard of it.

Mr. Warrum: That is all.

Witness excused.

Mr. Drinker: We offer from the United Mine Workers Journal of July 23rd, 1914, at the bottom of the first news column as follows,—

Mr. Warrum: We would like to look at it. The defendants separately desire to object to the introduction in the record of any extracts or communications from correspondents that appears in the Mine Workers Journal, for the reasons previously given in the objection to the introduction of such extracts and excepts from this Journal, for the reason that they are hearsay, and not binding upon the de-

fendants; and for the further reason that this occurred after the so called culmination of the conspiracy complained of.

2173 Mr. Drinker: I would like to show it to your Honor.

Mr. Drinker: exhibits article referred to to the court.)

The Court The objection will be overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Drinker (reading):

"From Arkansas.

"The Strike Is Still On.

"I want space in the Journal to tell of some of the condition existing at Prairie Creek No. 4.

"We had a little trouble here on Saturday night July 12th, Some of the scabs got out of the bull pen and started to shoot up camp Beulah, at the Mammoth Mine. There was quite a number of shots fired, but none of the miners or their families were injured.

"The men are firm and out to win. Everything has been quiet since Sunday night. Our District President and some of the boys have been on trial over an injunction.

"We are asking all men to stay away from here until this trouble is settled, as it is supposed they have agents out looking for men. Will you give the news through the Journal.

"We have the regular type of scabs at this place.

"W. H. CLUCK."

The Court: At this point we will adjourn until tomorrow, Thursday, November 2nd, 1917, at 9:30 a. m.

2174 Ft. Smith, Ark., Friday, November 2nd, 1917.

9:30, a. m.

Pursuant to adjournment as last aforesaid came all the parties as before on Friday, November 2nd, 1917, and the trial of the case proceeded as follows:

Mr. Drinker: If the court please we offer in evidence the deposition of Charles Suttles, taken at Coal Creek, Tennessee, on March 29th, 1917. (Reading):

"CHARLES SUTTLES, being duly sworn deposed as follows:

Q. Your full name is Charles Suttles? A. Yes, sir.
Q. Where do you live now?
A. Kentucky, Blue Diamond.
Q. On the L & N? A. Yes, sir.
Q. What company do you work for?
A. Blue Diamond Coal Co.
Q. Where did you live in June, 1914?
A. Briceville and here at Coal Creek.
Q. In June 1914, somebody come to see you to get you to go to work in Prairie Creek, Ark.? A. Yes, sir.
Q. Who was that?
[Q.] Fellow by the name of Bud Eustis.
Q. Did he tell you the conditions in Prairie Creek?
A. No, sir, not at that time, I told him I couldn't go I was running a team here for Loyal Coal Company and sent a man to me, man to me, I don't know if he sent him and got me to go.
Q. Who? A. Huk Thomas.
Q. Tell you anything about the conditions at Prairie Creek?
A. Expecting a little trouble, or had been, but it was all settled.
2175 Q. Strike on? A. Not until I got down here.
Q. Know it until you got on the train?
A. No, sir, until I got on the train and the bank boss at the Royal mine was on and told me was a strike.
Q. Where did you go? A. Knoxville.
Q. Who went with you?
A. Huk Thomas, Sam Thomas and Archy Bray.
Q. Know about the strike before you got to Knoxville?
A. Yes, sir.
Q. Where did you go from Knoxville?
A. Through up to there.
Q. To Prairie Creek? A. Yes, sir.
Q. Did Eustis go with you? A. Yes, to Fort Smith.
Q. When did you get to Prairie Creek?
A. What time.
Q. What date? A. 10th day of the month.
Q. What month? A. June.
Q. What were you employed to do there?
A. I worked in the mines, cleaning up some.
Q. What else? A. In the kitchen some.
Q. What else A. Guarded.
Q. What do you mean by guarded?
A. Shaft of No. 4.

Q. What against?
A. Looking to be burned up, none of the company told me, United States Marshal told me.
Q. What did they tell you to guard against when they made you a guard? A. Union they said.
Q. Union men? A. Yes, sir.
Q. Have a gun? A. Yes, sir.
2176 Q. What kind of a gun?
A. I believe it was a—I forget the name—30 Winchester I had.
Q. Where were you on the night of the 16th of July, that was the day before the battle?
A. The battle was on the 16th wasn't it?
Q. Battle was on the 17th? A. I was there.
Q. What were you doing the night before?
A. Guarding.
Q. Where?
A. Right in the gate where you went in at the mines.
Q. Next to the office? A. Yes, sir.
Q. Near the office? A. Yes, sir.
Q. How far away was that from where you slept?
A. I guess 100 yards.
Q. Did you see any men going up and down the road that evening?
A. Yes, sir, passed up and down the road that evening.
Q. Have guns?
A. No, sir, didn't see any guns that evening.
Q. More people on the road than usual?
A. Yes, few more than usual.
Q. What happened during the night?
A. Wire or something or other was cut, or something fell on it, I couldn't say it was cut.
Q. All the lights went out? A. Yes, sir.
Q. What time of night? A. Midnight.
Q. Before that, in the week before that, had you ever been over to Frogtown? A. Never was over there.
Q. Did any of the men that were in there with you working for the company go over there as far as you know?
A. Not as far as I know.
2177 What else happened during that night?
A. Weren't anything that night, that morning about 4:30 another man with me—
Q. Who was he?
A. Didn't know the man, stranger.
Q. Working for the company? A. Yes, sir.
Q. What happened?

A. Dog there and it raised up and began growling and I looked up to see what it was growling at and saw some men down in the road, three bunches of them in the road, just a little ways from me in plain view, three bunches of them.

Q. How many in a bunch?

A. Six or seven or eight.

Q. They have guns? A. Yes, sir.

Q. Did you hear any shooting at that time?

A. Not right at that time, on down a little passed me there was some shooting.

Q. From where?

A. From where these men went about the railroad, back of camps where had some tents.

Q. You see the flash of smoke? A. Seen the flash.

Q. Coming from where these men went?

A. Yes, sir.

Q. See any bullets? A. Yes, sir.

Q. Where did they strike?

A. In the office, out the window right out.

Q. Then what did you do?

A. Went to wake up the marshals, they give me orders not to fire no guns nor raise no disturbance, I done that and I went to wake them up, as I went down about the time I got to the tents shooting in there and a bullet went through the bib of my overalls. I waked them up and they grabbed up their guns and lit out to where the shooting was, but didn't see anybody.

2178 Q. Come back? A. Yes, sir.

Q. Then what happened?

A. I seed 25 or 50 men looked like.

Q. How many shots were fired?

A. I guess something near 100 shots or more.

Q. Then where did you go?

A. I stayed right there where I was at.

Q. [They] you go to the gate? A. Yes sir.

Q. How long did you stay there?

A. Until they relieved me at breakfast.

Q. What time? A. About seven o'clock.

Q. Anything happen while you were at breakfast?

A. I couldn't say, I didn't hear anything.

Q. How soon after breakfast until it started up again?

A. About eight o'clock or sometime near.

Q. What was the first you heard?

A. Three shots back up toward No. 3, three or four shots fired and looked and seen No. 3 tipple afire.

Q. See any people over there? A. Yes, sir.

Q. Which way were they coming?

A. This way toward me, going from No. 3 toward No. 4 tipple like.
Q. Did you see whether they were armed or not?
A. Could not.
Q. Were they firing? A. No, sir, stopped like.
Q. Had you heard any shooting in that direction by that time? A. No, sir, only three about the time of the fire.
Q. Where were they coming from?
A. About No. 3 tip.
Q. Three shots at No. 3 inside or outside by these people over toward No. 3? A. Couldn't say.
Q. Where were they fired from?
2179 A. Couldn't say if inside, don't know if it was outside or not, good piece from me.
Q. Can't tell who fired the three shots?
A. No, sir, couldn't tell.
Q. What happened to the men that you saw between you and No. 3 tipple? A. Can't say.
Q. Where did they go?
A. No, sir, right there about that time a man named Culley and bank boss started around to see where the wire was cut and come running back in a buggy and hollowed to open the gate and I opened the gate and [the] come in and jumped out of the buggy and said, "going to give us hell today", and I said, "they are" and they commenced shooting in there.
Q. Who? A. I don't know.
Q. What direction? A. Out of the woods.
Q. What direction? A. From No. 4 toward right of No. 4.
Q. The shooting in the camp or out from the camp?
A. Out of the camp.
Q. See any men out there?
A. No, sir, not at that time.
Q. Where did you go? A. Tipple.
Q. What did you come to the tipple for?
A. Take care of ourselves.
Q. Have your gun? A. Yes, sir.
Q. What you doing with it? A. Taking care of it.
Q. Shooting? A. We shot—I shot one shot.
Q. What at?
A. Fellow firing a house on the hill me and a United States [Marshall].
Q. What did you say you were shooting at?
A. Man firing a house.
2180 Q. What do you mean by firing a house?
A. Setting it on fire.
Q. How far away? A. 2 or 300 yards.
Q. What house was it?

A. House on the hill toward No. 4. Sorter back of No. 4.
Q. Between No. 4 and what?
A. House between No. 4 and No. 3.
Q. Could you see who the men were? A. No, sir.
Q. Fire toward you? A. Yes, sir.
Q. How many were they?
A. Couldn't say, a pretty good bunch.
Q. How many men you say you saw on the outside that morning? A. Couldn't say how many.
Q. About? A. Between 25 and 30 men I seen in the bunch.
Q. Around the house?
A. 20 to 25 around that house.
Q. How mauy men you see all around the place at that time? A. That day?
Q. Yes. A. Several of them.
Q. How many?
A. Two hundred or three hundred or more.
Q. Where did you go after that?
A. Left there, got out and come to Fort Smith.
Q. Meet anybody on the way? A. No, sir.
Q. Which way did you go? A. Right down the creek.
Q. Down the creek bed?
A. No, sir, wagon road to a spring and crossed the creek and went down the fields, and come across, I forgot the name of the station, to the railroad.
Q. Who was with you?
2181 A. Fellow named Sam Brown, I don't know who all, forty or fifty in the gang.
Q. Have a gun with you? A. Yes, sir.
Q. Fire it as you were going? A. No, sir.
Q. Did you all go into Fort Smith together?
A. Eight of us went together.
Q. You remember who they were? A. Some of them.
Q. Who?
A. Sam Brown, fellow named Sam Brown and Tom Perry. Let's see, I don't recollect the others, I know their faces if I could see them.
Q. Where did you go then? A. Fort Smith.
Q. And from there where did you go? A. Come home.
Q. Why did you leave Prairie Creek, the tipple where you were? A. When did I?
Q. Why didn't you stay there? A. Had to go away.
Q. Why? A. Shooting in there.
Q. What made you go away?
A. Had to go or be killed, they had come in there shooting and burning up everything that way."

2182 Mr. Warrum (reading):

"Cross-Examination

By Mr. Covington:

Q. What time did you leave there?
A. About twelve o'clock in the day.
Q. Remember if it was after twelve or little before?
A. Could have been a little after twelve.
Q. You leave any one there when you went away?
A. No, sir, not that I know of.
Q. Anybody shooting when you left inside of the stockade?
A. No, sir, not that I know of.
Q. No shots fired except on your side?
A. Yes, several of them fired.
Q. You recall now who did the shooting from the inside?
A. Sir?
Q. You recall who shot on your side?
A. Them [Marshall's] done most of it.
Q. The United States [Marshall's]? A. Yes, sir.
Q. They the ones that first show up by No. 3?
A. I don't know, couldn't say if there was any up there or not.
Q. You don't know who fired those shots at No. 3?
A. No, sir.
Q. You know the guards, most of the other guards at that mine? A. No, sir.
Q. They had a custom of stationing guards at No. 3 and between 3 and 4 at the pump house? A. I suppose so.
Q. Who did this guarding at No. 4?
A. I never was there, never saw none of those places.
Q. You left there with 35 or 40 others about twelve o'clock?
2183 A. Yes, about twelve.
Q. Any shooting going on at that time? A. Yes, sir.
Q. Was there a good deal of shooting? A. Yes, shore was.
Q. Where was you when somebody shot a hole in the bib of your overalls?
A. Starting to wake up them United States [Marshalls].
Q. How many were there at that time?
A. I don't know, I don't know. I didn't know anybody, all strangers to me, I got acquainted with one of the [marshalls].
Q. Who was that? A. Cleo Shell.
Q. Cleo Sheel there the morning of the shooting?
A. Yes, sir, the man I waked up, the man that gives me orders what to do.
Q. Who was the other [Marshall] that was there?
A. I can't say. I got acquainted with two [marshalls].
Q. What was the name of the other one? A. Holt.

Q. Holt there the morn ng of the shooting? A. No, sir.
Q. Nobody but Shell? A. I was there.
Q. And the other man?
A. Couldn't say how many [marshalls] was there.
Q. Shell and the other [Marshalls] with him did the greater part of the shooting from the stockade?
A. Yes, if any done much they done it. I don't know [—] done that shooting at No. 3.
Q. You don't know who did that shooting?
A. No, sir, could not say.
Q. You don't know who did any of the shooting that was not done from the inside of the mine, do you?
A. No, sir, couldn't say.
2184 Q. You didn't see any men around that you recognized except the crowd you were in?
A. No, sir, but one man, a young man that come and worked stayed two or three weeks there maybe, didn't do nothing much. I think they fired him out from there and it made him mad and he said he was going to have the God damned thing tore up and went with the Union, and he come back by where I was at and said the God damned thing be tore up in less than a week. I don't know his name, I know they called him Rusty.
Q. Describe that man, I want to locate him.
A. Low heavy set man, square built, freckled face.
Q. What age?
A. Looked like he was about 20 or 21, somewhere along there.
Q. Didn't call him Sullers, did they?
A. Called him Rusty, all the name I ever heard him go by.
Q. How long before this occurred on the 17th was he discharged by the company?
A. One week or two weeks, didn't pay any attention.
Q. Now you said he went with the Union?
A. Said he was going to the Union.
Q. You don't know anything about it? A. No, sir.
Q. After that he come back? A. Yes, sir.
Q. And said the God damned thing be blowed up in less than one week? A. Yes, that's what he told.
Q. Mr. Suttles, don't you know that four days before that riot at Priarie Creek that Frank Mays, United States [Marshall] at Prairie Creek and took away all the [Marshalls] and was not any there at that time?
A. I don't know that, they claimed they was [marshalls], I don't know, they said they was.
2185 Q. That fellow Shell, he said he was a [Marshall]?
A. Yes.

Q. And the other fellows that were [that] at that time on the morning of this trouble told you they were United State [Marshalls]?

A. Yes, I understood then they was [Marshalls].

Q. Then you didn't know at that time that all the real United States [Marshall's] had been taken away from there?

A. No, sir, didnt' know it at all.

Q. Those fellows represented themselves to be United States [Marshall's] and you took them at their words?

A. Yes, that's all I had to go by, was their word.

Q. You see this fellow that said he was going to tear this mine up, see him any more, you saw him the morning of the trouble? A. Yes, sir.

Q. In the crowd? A. Yes, sir.

Q. With his gun? A. I never seen him any more.

Q. How far away were those fellows in the road?

A. I guess as far as that house. About 100 yards.

Q. 4:30 in the morning?

A. Somewhere along about that time.

Q. Day light?

A. Getting day light, getting pretty light.

Q. Did he say anything to you?

A. Never spoke, nobody spoke.

Q. You speak to him? A. No, sir, did not speak to him.

Q. You recognize him at 4:30 in the morning 100 yards away and it was not then daylight?

A. Hardly good daylight, getting pretty good light.

Q. You could distinguish a white man from a negro that far? A. Yes, sir.

Q. You say there was 20 to 25 in that crowd?

2186 A. Yes, may be more, I couldn't say, I didn't count them.

Q. How far from the point where you first discovered them did they go before this shooting began?

A. They went I guess [tro] or three hundred yeards from there to the railroad and back into the camps.

Q. What camps?

A. At the office where they had tents, them [Marshalls] there in them.

Q. Went where the [Marshalls] and other people were?

A. Yes, know where the office sits there? They went down that way to the tipple and went that way to the camp.

Q. Went in the camp?

A. No, sir, stayed in the road, outside in the road.

Q. How close to the tents of these [Marshalls]?

A. Shooting all around them.

Q. How close were they before they begun to shoot?

A. Didn't come in on them, they was down here and the [Marshalls] down there, and that bunch did't come back around, never seen that bunch any more.

Q. You would have had to know that this man, this particular man was there to know if you saw them, would you not?

A. I know he was with them that morning.

Q. He was the man that had been working where you had been working? A. Yes, sir.

Q. No. 4? A. Yes, sir.

Q. He had been discharged about one week before that?

A. I couldn't say if he was discharged or just quit.

Q. You said he was discharged and awfully mad?

A. He said he was discharged.

Q. That was about one week gefore this occurred?

2187 A. Somewhere about that, maybe longer or not that long.

Q. How many men were working that at the time of this difficulty?

A. I couldn't say, I guess 50 to 75 men there just making a guess at it, a man might be fooled in a bunch of men.

Q. What did you do from the time they shot that hole through the bib of your overalls up to the time you left there?

A. I stayed right there, them United States [Marshalls,] that Cleo Shell we all stayed around, we got to the tipple where we could take care of ourselves, watch for ourselves to keep from being killed, stayed there all around the tipple.

Q. Where was this fellow Eustis?

A. There.

Q. You left with him?

A. He come part of the way with me.

Q. He was in the crowd that left about twelve o'clock on the day of this trouble?

A. Yes, in the crowd.

Q. You know Buster Moore? A. Yes, I know him.

Q. He come out with you? A. Yes, sir.

Q. Went to Fort Smith?

A. I guess he took the train and went to Fort Smith he left us.

Q. Where?

A. About the station, I forget the name of the place.

Q. Went out of the mine with you? A. Yes, sir.

Q. Know Torrance McLoy a young fellow that worked there? A. Yes, sir.

Q. Went out with you too along with Mr. Moore?

A. I would not say there was two or three of those boys.

Q. Torrance was the larger one and Tommy the smaller?
A. I don't remember, one of them did go the best of
2188 my recollection, didn't pay much attention.
Q. Sam Thomas there? A. Yes, sir.
Q. Go out with you? A. No, sir.
Q. When did he leave?
A. About nine, nine or ten o'clock in the day.
Q. Can you name some of those who left with you?
A. Don't know whether I can or not, whether I can think of the names or not.
Q. You would know this man Rusty?
A. Yes, was to see him I would know him.
Q. Never seen him since that day? A. No, sir.
Q. Have you seen Sam Thomas? A. No, sir.
Q. Sam Thomas go from this place? A. Yes, sir.
Q. But he never returned?
A. No, not that I know of, never have seen him.
Q. While you were guarding there, how many days or nights did you guard?
A. I don't remember, didn't guard very many, few days.
Q. What is your trade or profession?
A. Driving a team and working with stock.
Q. You work in the mines any while you were out there?
A. Yes, sir.
Q. What did you do in the mines?
A. Cleaned up and laid pipe line.
Q. Now who were the three men you say rushed in to the mine that morning of the 17th in a buggy?
A. Two men.
Q. Who were they? A. Eustis.
Q. Bud Eustis?
A. Yes, I believe the other was Culley.
Q. Ransom Gulley? A. I didn't know them apart.
2189 Q. Tall fellow. A. Yes, sir.
Q. Nearly as large as Mr. Bache there?
A. Yes, near it.
Q. He remain in the mines there until you left?
A. Yes, came out as we did, left his horse and buggy up there.
Q. Now, Mr. Suttles, this one man that you have described, who was commonly known as Rusty is the only man that you can identify? A. Yes, sir.
Q. Who else was with him you don't know?
A. No, sir.
Q. And he worked there until one week of that time?
A. Yes, been there sometime I had never worked any with him.

Q. The last talk was within less than one week of the trouble on the 17th?

A. Yes, along about one week.

Q. Mr. Drinker asked you if you did not ascertain on road, while on the road to Prairie Creek, between Coal Creek and Knoxville, that there was a strike on at Prairie Creek, Ark.?

A. Yes, sir.

Q. Did not ascertain that from the men here but from another man? A. No, sir.

Q. They didn't tell you anything about the trouble over there?

A. No, sir, not then, they was out getting up men, didn't tell me anything about it.

Q. Paid your transportation over there? A. Yes, sir.

Q. Single man?

A. I have been married, my wife is dead.

Q. You were over there, didn't have any family with you?

A. No, sir.

Q. When did you really learn that they anticipated some trouble at Prairie Creek?

A. The morning that we started from here a lot of boys got to talking and telling me there was a lot of trouble,
2190 and old man Thomas was there then and said there had been trouble but were not any now.

Q. He was the one that come to you soliciting you to go?

A. Yes, sir.

Q. Where is he?

A. I couldn't say not saw the old man, but he is here in the State somewhere I think.

Q. You related to Sam Thomas?

A. No, sir, no relation.

Q. Who is J. J. Johnson?

A. Man that used to be in Briceville, an old like man.

Q. A preacher?

A. Yes, claims to be, I am not personally acquainted with him, barely know him when I see him.

Q. What company did you work for at Prairie Creek, Ark?

A. Bache & Denman, Prairie Creek Coal Company.

Q. Don't know who you worked for? A. No, sir.

Q. They didn't take the trouble to tell you?

A. No, sir, didn't take the trouble to ask them.

Q. You say you worked from the 10th to the 17th of July?

A. Yes, sir.

Q. How long did you remain at Fort Smith when you reached there? Come back home?

A. Yes. Stayed there four or five days, maybe a week, no, didn't stay over four or five days.

Q. You say you helped to clean up the mine?

A. Yes, from the air way.

Q. What were you being paid?

A. Paid me $2.80 a day, per day. I think that was it, wouldn't be positive.

Q. You get your money?

A. I did have a statement, but I have not got it now,
2191 could state to a cent what it was paying me.

Q. Now in answer to Mr. Drinker's question a mo ment ago you say you some man early in the morning burning a house toward No. 3? A. Yes, sir.

Q. That before or after the three shots, you don't know who fired the shots? A. Afterward.

Q. Who was guarding the No. 3 that morning and night before?

A. One fellow named Tom Perry, didn't know the other man.

Q. You know where Tom Perry was from?

A. Yes, Tennessee.

Q. Where does he live?

A. Knoxville, last I knowed of him.

Q. What was his occupation?

A. Worked around the mines, one thing and another.

Q. Know what he did before he went to Arkansas?

A. Coal tipper at Royal mines.

Q. Before he went to Arkansas?

A. Yes, tipping coal.

Q. Did you ever learn from Rusty or anyone else just where he came from?

A. No, sir, I never did, never asked the boy where he come from.

Q. Was that the name by which he was commonly known around the mines?

A. Yes, the name he was commonly known by around the mines, so far as I know.

Q. That all you ever heard him called? A. Yes, sir.

Q. And he answered to that name?

A. Yes, he answered to it.

Q. And you are certain you never met him after he had the conversation with you in which he threatened to burn the mines?

A. No, sir, never have.

Q. How many [shote] you fire that morning?

A. One shot.

2192 Q. You shot the fellow that shot your over-alls off of you?

A. No, sir, if I had seed him I would.

Q. Have you those over-alls?

A. I did have but got my house burned up, I fetched them home to save them, but got them burned up.

Q. You live in Coal Creek? A. No, sir, Kentucky now.

Q. What do you do in Kentucky?

A. Get timber for the mines.

Q. What mines?

A. Blue Diamond Coal Company.

Q. If called upon in the County seat of this county to make the same statement about the man soliciting you to go to Prairie Creek, Arkansas, that you made here, would you do it? A. Yes, sir."

Mr. Drinker (reading):

"Redirect Examination

By Mr. Drinker:

Q. You know Sandy Robinson when you see him?

A. Yes, sir.

Q. You see him on July 17th?

A. Yes, evening before.

Q. Where? A. Went up the road.

Q. Know Clint Burris when you see him? A. No, sir.

Q. Had the company shipped any coal before the 17th of July? A. No, sir, done had it loaded.

Q. When did they load it?

A. From the 10th of June until that time.

Q. Had they shipped any coal out before the battle?

A. I don't know.

Q. Couldn't say? A. No, sir.

Q. You were cleaning up in the mines?

A. Yes, worked in the mines, loaded some coal.

2193 Q. How long before the battle?

A. Day or two before, maybe the day before.

Q. Load any before that? A. Yes, sir.

Q. How long before that?

A. Not very long before that, had not got it cleaned up and the water out very long before that.

Q. You say there was a man named Gulley, you know if it was Gulley or Gullett? A. I couldn't say.

Q. You know Gullett?

A. Jim Gullett or Gulley, don't know which.

Q. You know two men one named Gulley and the other Gullett? A. Yes, one fellow back in there that day.

Q. Both go to Fort Smith with you?
A. Couldn't say.
Q. Which one did?
A. That big man that come to the train.
Q. That was the big man? A. Yes, sir.
Q. That you thought was a [Marshall]?
A. No, sir, didn't think he was a [marshall], man that run the store there, I think."

Mr. Warrum (reading):

"Recross Examination

By Mr. Covington:

Q. Mr. Suttles, on the 17th day of July when this trouble occurred about which you testified, was John Gulley and John Gullett both at the mines that day?
A. Yes, two of them, I never knowed none of them but Jim, knowed his name but didn't know the other boy's name.
Q. The boy whose name you don't know was a little larger than the one you did know?
A. Yes, the dark skinned fellow.
2194 Q. Both there that day? A. Yes, sir.
Q. John and Jim? A. Yes, both there.
Q. Did they leave with you?
A. Yes, come out when we did."

2195 Mr. Drinker: We next offer the deposition of Mrs. Rhelda Perry taken at the same time as the latter, and, if counsel does not object, I will read it from my copy. (Reading):

"Mrs. Rhelda Perry, being duly sworn deposed as follows:

Examined

By Mr. Drinker:

Q. What is your full name? A. Rhelda Perry.
Q. What was your name before you were married?
A. Rhelda Thomas.
Q. Are you the daughter of Mr. Thomas, who has just testified here, Ewings Thomas? A. Yes, sir.
Q. Where were you living in the spring or 1914?
A. Briceville.
Q. You married at that time? A. Yes, sir.
Q. How many children you have then? A. Three.
Q. Who was your husband? A. Tom Perry.
Q. Who else lived with you there in Briceville?
A. Not anybody just us.
Q. Where did your mother live?

A. On the other side of us.
Q. Near you? A. Yes.
Q. Who was living in that family?
A. My father, mother, brothers and sisters.
Q. When was the first you heard about going to Arkansas?
A. First I heard about it when—I forgot the man's name that come out there, come and told about it and my father fixed up and went on out there and when we went out there he come back and we all fixed up and went back with him.
Q. You know what time of the year that was you
2196 went back? A. No, sir.
Q. Remember what month it was?
A. No, sir, I don't.
Q. Was it summer time or winter time?
A. Summer time.
Q. When you got there where did you go to live?
A. Up on the hill above Goo Goo mines, about the fan house, little piece from the fan house.
Q. What house you live in, by yourself or with other people? A. In the house with my father.
Q. Who was there?
A. My father and mother and brother and three children and his little girl, and Mr. Martin.
Q. How long were you there before this trouble happened?
A. One week.
Q. You know what day of the week it was the trouble happened? A. On Thursday I think it was.
Q. What was the first you heard about it?
A. First I heard was between three o'clock and four o'clock the shooting commenced.
Q. Where was the shooting?
A. Back in the direction of Frog Town.
Q. What did you hear?
A. I heard three or four shots fired.
Q. You asleep at that time?
A. Yes, woke me up the shots did.
Q. What did you do?
A. Jumped up in the bed, and asked my father—told my father the shooting had commenced.
Q. Was he asleep?
A. No, sir, he was laying down had been up and down all night with his wife.
Q. What was the matter with her?
A. I don't know got down and the doctor said it was hot weather and was scared because she was out there thought there would be more trouble, there was lots of talk of
2197 it.

Q. Then what did you do after you spoke to him?
A. I got up and put on my clothes and went in the kitchen and built a fire.
Q. What did your father do?
A. Got up and went out to see where the shooting was at, shooting all around as by that time here and yonder bullets coming from all directions.
Q. What time was that?
A. About four o'clock by that time.
Q. Shooting keep on? A. Yes, sir.
Q. Then what did you do?
A. I got up breakfast and when I got breakfast I went to the camps.
Q. What direction did you go? A. Fan house.
Q. What did you do down there?
A. To see about my husband and see if he was killed.
Q. What was he doing down there?
A. Guarding to keep them out, to keep them from coming in and killing us.
Q. Find him? A. No, sir.
Q. How far did you get?
A. Dirt tip, right behind the boiler room.
Q. Who did you find down there?
A. Didn't find anybody had to turn back the bullets got so hot got back as quick as I could.
Q. What time was that? A. About eight o'clock.
Q. Who was with you? A. Mr. Martin.
Q. Who else? A. My brother.
Q. What is his name? A. William Thomas.
Q. Where did you go from there?
A. First went behind some bushes, squatted behind
2198 some bushes got so hot, bounced all around us looked like they was going to try to kill us if they could the way the bullets were coming.
Q. How long did you stay there? A. Five minutes.
Q. Then where did you go? A. On home.
Q. What time did you get home?
A. Didn't notice I was scared so bad never thought to look.
Q. Who did you find there?
A. My mother was on the floor with her face to the floor said she was praying for her life to be saved, didn't want to be killed up there.
Q. Who else was there?
A. My father and three children and my sister.
Q. Then where did you go from there?

A. To a bluff, other side of the house half a mile I guess from our house in a bluff.
Q. What did you do there?
A. Got behind those rocks to try to save ourselves.
Q. See anybody going up there?
A. Few men standing here and there around.
Q. Inside the camp? A. Yes, sir.
Q. See any outside? A. No, sir.
Q. See any men with guns coming from the fan house to your house? A. Yes, sir.
Q. Where were they?
[—] Back from the fan house coming in this way.
Q. Inside the camp or outside? A. Inside.
Q. Coming toward you? A. Yes, sir.
Q. How many were there that you saw?
A. Can't tell exactly how many, big bunch of them.
2199 Q. See any that had guns?
A. Yes, they all had guns.
Q. What were they doing? A. Shooting.
Q. Which direction? A. Down into the camp.
Q. You know any of them? A. No, sir.
Q. When you got on the bluff how long did you stay there?
A. Went about seven and stayed until about eleven.
Q. See any fire along as you come back with your brother?
A. Tipple burning as we come up, we seed the smoke.
Q. What tipple? A. No. 3 tipple.
Q. Where was that?
A. Back toward Frog Level, I just know the name, just heard them call the name of the place.
Q. When you were up on the bluff did you hear any shooting?
A. Yes, plenty fired so fast couldn't count the bullets.
Q. Hear any other sound at that time? A. Yes, sir.
Q. What was that?
A. Dynamite, blowed the mines up.
Q. What time was that? A. Don't know just exactly.
Q. About? A. About nine o'clock I believe.
Q. What kind of a sound was that?
A. Like the whole earth was falling in.
Q. How long you think you stayed up there on that bluff?
A. We stayed from about seven or eight, seven I reckon until eleven.
Q. How did you know it was eleven?
A. Two men came to us and told us what time of day it was.
Q. Where did they come from?

A. Come out toward where we lived.
Q. Did you know these men? A. No, sir.
Q. Seen them before? A. No, sir.
Q. Have guns with them? A. Yes, sir.
2200 Have any marks on them?
A. Yes, white handkerchiefs on their left arm.
Q. When did you first see them?
A. First I seed of them standing with guns throwed down on my father.
Q. What did he do?
A. Throwed up his hands and begged them not to kill him.
Q. What did they say?
A. One kept throwing his gun in his, the first one throw his gun down and lift it up and throw it down and the other said, "don't shoot that man".
Q. What were you doing?
A. Let in to screaming, all we could do.
Q. What did the balance do?
A. My little girl grabbed me and said—"Lord, don't kill me or my mamma."
Q. Then what did they do?
A. Told my father to gather us all up and they would take us to the outside, take us to Hartford I believe is the place they told us.
Q. Where did you go first from the bluff?
A. To a spring or a well.
Q. See anybody going down to the well?
A. Yes, plenty.
Q. Who?
A. Crowd laying on the road where that tipple was burning.
Q. What were they doing? A. Shooting.
Q. What were they shooting with? A. Long armed guns.
Q. Have any marks on them?
A. Yes, all had white handkerchiefs around their left arms.
Q. How many you [saw] you saw with guns and handkerchiefs? A. All of them.
Q. How many were there?
2201 A. About 200 of them I guess, I can't say there was over that, I will say 200 of them.
Q. You see any other men walking around?
A. Yes, went through there on mules and asked if they were out of ammunition or needed any more ammunition.
Q. What did they have on the mules, anything at all?
A. Yes, sir.
Q. What did they have on them? A. Sack.

Q. Did you hear what they said?
A. Yes, said I want more ammunition and said to go a little piece further some of them was out of ammunition.
Q. Where did he go?
A. Up the road to some more of them.
Q. Where did the mule go?
A. With him, he stayed on the mule.
Q. Then where did you get to?
A. To the well and got a drink.
Q. What did you see at the well?
A. Great crowd of men
Q. These two men that come to you at the bluff go with you to the well? A. Yes, got us water.
Q. Who did you meet at the well?
A. I can't tell you who all was there.
Q. How many was there?
A. About two hundred gathered around us after we got there.
Q. Have guns? A. Yes, sir.
Q. Have marks on them? A. Yes, sir.
Q. What marks?
A. White handkerchiefs tied around their left arm.
Q. Did anything happen at the well there?
A. A man that [that] had on his work clothes, had on his bank cap and bank clothes and had his wife there
2202 and she had four children and these other fellows said, "just give you so many minutes to get away in", and told him if he didn't get away in that length of time they would kill him.
Q. Where did they tell him to go?
A. Hit that corn field and get away as quick as you can.
Q. What did he do?
A. Hit the corn field, jumped the fence, I don't think he ever touched the fence he was going so fast.
Q. See him any more that day? A. No, sir.
Q. See him any more? A. No, sir.
Q. What become of his wife and children?
A. We left them at Hartford.
Q. Where did they go from the spring? A. Hartford.
Q. How did they go?
A. Went out the road and these fellows that took us put them in a hack and took them to Hartford.
Q. How did you get from the bluff to where you got in the hack? A. Walked.
Q. How were you dressed?
A. Nice dressing, I was well dressed, I looked like a clay bank. I was barefooted.

Q. Where were your shoes?
A. I left them at the house, somebody got them, I don't know who got them.
Q. How long did it take you to get to Hartford?
A. About one when we got there.
Q. Where did you go when you got there?
A. First took us up stairs in a hotel and took us out of the hotel and we went back to an old store house.
Q. See any people on the way to Hartford?
A. Yes, lots.
Q. Men or women? A. Yes.
A. Men and women? A. Yes, had guns.
2203 Q. Have handkerchiefs on them?
A. Yes all had handkerchiefs tied around their left arm.
Q. Then when you were at the hotel any people come up there?
A. Yes, women come up, several women come up some treated us very nice and some of them treated us pretty bad, one woman there said, "she was sorry—
Q. When this woman was there any of the people there who brought you into Hartford?
A. No, sir, just our own folks.
Q. When you went to the store house, what sort of a place was that?
A. Very nasty looking place, had to keep our handkerchiefs over our noses to get our breath.
Q. Why? A. So nasty.
Q. What was in there?
A. Everything in the world looked like.
Q. What sort of things?
A. Just old cow hides and old cheese that had rotted, been an old store in there, old potatoes and old cabbage rotten.
Q. How long were you there?
A. There from Saturday until Sunday morning.
Q. You go anywhere Friday night?
A. Yes, Friday evening about four o'clock I went back after my things.
Q. Who went with you?
A. Three officers, they said they were officers.
Q. You walk? A. No, sir, went in a wagon.
Q. How many wagons? A. Two.
Q. You meet any people on the road? A. Yes sir.
Q. Who did you meet? A. I don't know who they was.
Q. Have any marks on them?
A. No, sir, didn't have any marks on them.

Q. Any people stop you on the road? A. Yes, sir.
2204 Q. They have guns?
A. If they did they had them concealed, I didn't see them.
Q. How many times you stop on the road?
A. About one dozen times.
Q. These officers with you at that time, said they were officers? A. Yes, sir.
Q. Why did you stop?
A. Asked questions, would ask how I come out there and I told them I just come and they said then, "didn't you know there was trouble here", and I said, "No sir, didn't know there was no trouble" and they said, "well you know it now, don't you", and I said, "yes, I know it now. They said they wanted us when we got back home to turn to be unions, I told them I didn't think it was a woman's place to be a union, that the men would have to decide that I didn't have anything to do with it.
Q. When you got to Prairie Creek what did you find?
A. We found everything all right when we went there, everything was very peaceable, I didn't see any trouble there.
Q. Did you notice any of the houses?
A. Yes, saw houses there.
Q. Did you notice the mines as you went by?
A. Yes, sir.
Q. Notice anything special about them?
A. No, sir, just looked like any other mines.
Q. See No. 3 tipple when you went back?
A. Pretty good building, I thought.
Q. Was that the same tipple you went by as you come out?
A. Yes, sir.
Q. Go back the same way you come out?
A. Yes, come in there after dark, couldn't see very much after dark.
2205 Went in after dark? A. Yes, sir.
Q. What time was that?
A. Little after seven o'clock I suppose.
Q. In the evening? A. Yes, sir.
Q. You see any fires around when you went in?
A. No, sir.
Q. What did you do when you got there to your house?
A. Went there and made down pallets and went to bed.
Q. I mean when you went back to get your things. What did you do when you went back to Prairie Creek when you went back for your things?
A. Went in and got our things, what was left of them.
Q. What did you find there?

A. Couldn't find anything much, only what was the company's, our trunks had been searched and everything taken out of them that was valuable.

Q. In answer to my question when you said when you got there everything was all right were you talking about going into Prairie Creek first or second time?

A. I thought you was talking about how did we sleep after we got to Prairie Creek.

Q. You were talking about the time when you first got there? A. Yes, sir.

Q. I was talking about when you went back to Prairie Creek after your things? A. Yes, sir.

Q. When you went back to Prairie Creek was it all right then? A. No, sir, our things were destroyed.

Q. See the mines?

A. No, sir, no mines there, everything burned up.

Q. Were there any houses in the camp there when you went back? A. Yes, some few.

Q. Any burned up? A. One or two burned up.

2206 Q. What did you do with your things when you found them there at Prairie Creek?

A. We put them in the trunks best we could and put them in the wagon and brought them to Hartford.

Q. What did you do with them in Hartford?

A. Piled them in the store house, brought none except ours. I don't know what became of the company's things, they said they were going to pay the expense out of the things they took down there.

Q. Who said that?

A. I don't know, some of the men down there.

Q. What men? A. Union fellows.

Q. Where did you go when you left the store house?

A. Went to the depot.

Q. When? A. Sunday morning.

A. On Saturday you stayed there all day?

A. Yes, sir.

Q. Your brother go away anywhere?

A. I don't recollect if he did.

Q. Then on Sunday morning what time did you start?

A. About six o'clock.

Q. Have your breakfast? A. No, sir.

Q. What train did you go on, if you know?

A. No, sir.

Q. Went back to Coal Creek then? A. Yes, sir.

Q. You know who paid your fare?

A. Mayor of the Town.

Q. How do you know it was the Mayor of the town?

A. Man that guarded us said he was.
Q. How many guards did you have?
A. Two guards in the store house.
Q. Have any guns? A. Yes, sir.
Q. What were they guarding against, if you know?
2207 A. Afraid they would come in and kill us they said.
Q. Who did they say would come in and kill you?
A. Boys were all drunk and they were liable to come and kill us if they didn't have a guard.
Q. Did you know Charles Suttles? A. Yes, sir.
Q. You see him before you went down to find your husband? A. No, sir.
Q. Get your shoes when you went back?
A. No, sir, I come barefooted from out there home to Coal Creek."

2208 Mr. Warrum: We waive the reading of the cross-examination.

Mr. Drinker: I will read it. (Reading.)

"Cross-Examination

By Mr. Covington:
Q. You got up between three and four o'clock on the morning of the trouble, on the 17th of July, you say? A. Yes, sir.
Q. And dressed? A. Yes, sir.
Q. And put on your shoes?
A. Didn't have any to put on. I had shots it was so hot didn't put my shoes on.
Q. Went down to the mines without any shoes on?
A. Yes, sir.
Q. You had shoes?
A. Had slippers, bought them at Coal Creek gave $3.75 for them when I started from Coal Creek.
Q. Went on the mountain without any shoes on?
A. Yes, sir.
Q. Did you wear the same clothes that you wore around the mines there before that time? A. Yes, sir.
Q. Why is it you leave the impression in your testimony that something happened to make your clothes look like clay?
A. The wind was blowing the clay dirt all over us and we was wet with sweat, I had two children, packing my children and sweating and the dust flying against us and made us dirty. Our clothes were not dirty when we left the house it was the dust on the road, the wind blowing the dust against us.
Q. When you started to Hartford—didn't get into that on the mountain? A. No, sir.

Q. Was not any of that out there? A. No, sir.
2209 Q. When you went down to the mines you didn't see your husband? A. No, sir.
Q. Who was with you? A. Mr. Martin and my brother.
Q. Where was your father? A. At the fan house.
Q. There [was] you went down? A. Yes, sir.
Q. What time of the day was that?
A. About seven o'clock.
Q. You say they were just shooting everywhere?
A. Yes, sir.
Q. Bullets flying thick? A. Yes, sir.
Q. There in the camp there? A. Yes, sir.
Q. Anybody get killed?
A. If they did I don't know it, said one was killed.
Q. Any killed there that you know of?
A. No, sir, not that I know of.
Q. About how many men and women and children in the camp the bullets were flying through? A. I don't know.
Q. Four hundred? A. Don't know.
Q. Two hundred? A. I don't know.
Q. Three hundred?
A. About that many, not acquainted with all of them.
Q. About three hundred you think? A. I think so.
Q. Where these bullets knocked up the dust all around there? A. I didn't say that.
Q. I understood you to say knocked the dust all around?
A. Down at the boiler house the bullets bounced all [ardound] us and we got in behind the bushes, there is a little branch there, no dust there, the bullets were flying.
Q. See the men shooting?
A. No, sir, couldn't see that.
Q. Where were they shooting from?
2210 A. At the side of the railroad and the ridge, some along there.
Q. That the only ones doing any shooting?
A. No, sir, and on the bluff.
Q. And some fire around the mines? A. Yes, sir.
Q. How long did you remain down there in that particular zone?
A. Just as quick as I got a chance I got back to the house.
Q. Got a chance, I ask what you mean by that?
A. Bullets flying so fast I was afraid I would get killed and my little children were there at the house, mother was sick and my husband not there and their lives were as sweet to them as mine was to me.
Q. That was about seven o'clock in the morning?
A. Yes, sir.

Q. You then went back to the house and your father and the rest of the family went out on the mountain?
A. Yes, sir.
Q. And you saw some men with guns drawn on your father? A. Yes, sir.
Q. Had long, what kind of guns? A. Long rain guns.
Q. You know a gun of that particular make when you see it? A. I know one if I see it.
Q. Where did you see one of these guns?
A. Seed them fellows have them.
Q. First you ever saw? A. Yes, first I ever saw.
Q. State the peculiarity of the gun that attracted your attention to this high powered gun?
A. Why the bullets about that long they have to shoot, that went in that gun. (Holding [here] right fore finger on her left hand about one inch above the bottom joint of the fore finger."
Q. You know what Mr. Drinker means by above the [botoom] joint of the fore finger?
2211 A. Just means the cartridge—above the bottom jint of the finger, there is a jint and there is a jint. (Showing on her finger).
Q. Yes, but I want to know about the bottom joint of the fore finger? A. Jint in my hand, I mean.
Q. That the peculiar thing about the long range guns that attracted your attention, had a cartridge about five inches long?
A. I didn't say nary inch, I said that long.
Q. You know what an inch is? A. Yes, sir.
Q. How many inches long was the cartridge?
A. You know as much as I do, about that long. (Measuring on her finger.
Q. That be about five inches long? A. I guess so.
Q. You are willing to do the testifying in this case without the assistance of Mr. Drinker?
A. If he sees I am doing anything wrong to tell me.
Q. Perfectly willing to have him assist you?
A. I think he needs to do that, I never was sworn any before, my oath was never took before, I might say something might hurt your feelings some way, I ain't going to tell no tales, here to tell the truth on both sides.
Q. Now then from the cartridges that you described on your fore finger from the bottom knuckle up, you say it was a long range gun? A. Yes, sir.
Q. Where did you see the cartridges?
A. Saw them loading their guns up.

Q. Stand there and load before he drew his gun on your father? A. No, sir, not them.

Q. Afterwards?

2212 A. Shot them out after they get from us, they went in front of us, and turned around and loaded them.

Q. What were they shooting at?

A. I don't know that.

Q. What direction were they shooting?

A. Toward the camp from where we were at.

Q. That the employees of the mine there? A. Yes, sir.

Q. You had seen them before?

A. No, sir, the first ones I ever saw that way.

Q. Now proceed from the mountain down, how far was it from where you were first stationed to the spring or well you refer to?

A. I guess about a mile and half from where we was at. May have been a little further.

Q. When you reached the well you were back two and half miles from that mine were you not? A. Yes, sir.

Q. You saw the men around that well and on the ridge shooting toward the mines?

A. No, sir, didn't say that.

Q. Where?

A. From the ridge toward the tipple house.

Q. Go by the tipple house?

A. Where there was a fire down there went around the tipple couldn't go by the tipple it was afire and blowing toward us, we had to go in the woods.

Q. How far east of the tipple did you go?

A. I don't know about 200 or 100 yards, I guess from up there.

Q. How near you get to the road leading from Huntington to Hartford?

A. Went around that and come back in the road.

Q. You get into the road leading from Huntington to Hartford?

A. Left that road and went through a little path there to the well and little house, a house down there.

2213 Q. Any automobiles standing around there?

A. No, sir.

Q. Buggies and wagons? A. Yes, wagons.

Q. Women and children scattered all over that section of country? A. Yes, sir.

Q. Have guns, all the women and men? A. No, sir.

Q. Have white handkerchiefs on their arms?

A. Women did.

Q. Men have them too?
A. Yes, some of the women had white handkerchiefs and some white waists.
Q. Them that didn't have on white waists have white handkerchiefs on their arms? A. Yes, sir.
Q. Which arm? A. Left.
Q. Men have them on the left arm? A. Yes, sir.
Q. Men at the well with the miners clothes on, I believe you said some fellow of that kind, dressed in that way, had a wife and four children— A. Yes, sir.
Q. They were there with him? A. Yes, sir.
Q. And told him they would give him a chance for his life? A. Yes, sir.
Q. And he jumped the wire fence and went toward the field? A. Yes, sir.
Q. Then some of the parties present pointed to a high tree some distance beyond and said go there, pointing to that tree, we will give you a chance for your life?
A. No, sir, told him to go to the tree.
Q. Have you and your father discussed this matter frequently since you returned here?
2214 A. No, sir, just what I am telling you is the truth, I ain't telling no story anything about this.
Q. Just answer my question? A. I am telling you.
Q. Who got you to come here to testify?
A. This fellow here.
Q. The lawyer? A. Yes, sir.
Q. Were you to be down at Coal Creek yesterday?
A. I don't know whether was to be there yesterday or not, we were not.
Q. You know whether you were to be there?
A. We was aiming to go but we come over here and he would call us.
Q. The private detective of the plaintiffs first talked to you, standing in the door?
A. We come to Coal Creek and we got off at Coal Creek and this fellow was there and we told him we were coming on over here, and he said, "the lawyers on both sides want to see you".
Q. Did he tell you the lawyers on both sides wanted to see you?
A. Yes, the lawyers on both sides wanted to see us.
Q. And then tell you what they wanted with you?
A. I don't think so, never, I thought he told us enough, was not his duty to tell us, was it? I didn't think it was.
Q. What were you doing at Coal Creek, how did you come to meet with this detective at Coal Creek?

A. He wrote us to be here, not wrote but telephone to us.
Q. Where did you live?
A. Middlesboro, Fork Ridge, lived at the mines at Fork Ridge.
Q. And he told you the lawyers on both sides wanted you to come down here? A. Yes, sir.
Q. What did he say they wanted you for?
2215 A. No, sir, didn't particular tell us what for, we knowed what for.
Q. Who paid your way down here? A. He did.
Q. Paying your expenses while here? A. Yes, sir.
Q. This same man standing in the door? A. Yes, sir.
Q. You know his name? A. No, sir.
Q. Tell you his name?
A. Maybe, but I don't remember it.
Q. Would you remember it if you heard it?
A. Yes, sir.
Q. Named Curtis? A. Yes, sir.
Q. That the man there in the door? A. Yes, sir.
Q. Did you agree to come back to Coal Creek yesterday?
A. Yes, if they needed me I was willing.
Q. Did you agree to go back, were you to go?
A. If they wanted me to go back.
Q. And they didn't ask you to come back?
A. No, sir, come here and stay until they called us, if they needed us they could call us, I had a brother and sister here and was coming to see them, I supposed if they had not wanted us they would not have kept us down here.
Q. When did you see them again?
A. Didn't see them any more until yesterday evening, come back with this here man.
Q. Came to see you?
A. No, sir, I never spoke to him yesterday, until this morning.
Q. You talk to Mr. Drinker yesterday evening?
A. Yes, sir.
Q. When did your husband—he came back from Prairie Creek, Arkansas? A. Yes, sir.
Q. Where is he now?
A. I don't know where he is right now.
Q. How long since you heard from him?
2216 A. A few minutes, an hour or so since I saw him.
Q. Is he here? A. Yes, sir.
Q. To testify?
A. No, sir, not capable of testifying, hard of hearing and can't understand enough and not capable of testifying, can't hear good, just as liable to say one thing as another.

Q. They paying you for your time here? A. Yes, sir.
Q. What are they paying you?
A. I don't know exactly.
Q. What did they agree to pay you?
A. Said they would pay us our fare out here and expenses.
Q. Anything else? A. No, sir.
Q. Just railroad fare and hotel bill? A. Yes, sir.
Q. You were told by Detective Curtiss that the lawyers on both sides wanted you?
A. Yes, sir. They told us they didn't want us to tell anything but the truth, we told them just what we tell you all, we didn't tell any flarry tales.
Q. Did you tell Curtiss, or anyone else what you would testify if they carried you to Coal Creek yesterday?
A. Don't understand that.
Q. Did you tell them before you came over here what you would testify to if you went to Coal Creek?
A. Didn't tell them anything about that.
Q. The first intimation you give of what you would testify was on yesterday? A. Yes, sir.
Q. They didn't know what you would testify to until they come here yesterday evening.
A. I never saw them until yesterday evening.
Q. Mrs. Perry you didn't know the names of any of
2217 the employes or anybody else you saw that day?
A. No, sir.
Q. Don't know who they were or where they came from?
A. I know some come from that town they took us they come in droves, passed us all along going in.
Q. You don't know their names, the men or women or any of them?
A. No, sir, didn't know them.
Q. Don't know any of the employees of the company except those you have named? A. No, sir.
Q. After you got to Hartford they still have on white handkerchiefs? A. No, sir.
Q. How far out of Hartford did that mark of distinction continue?
A. At the well was the first starter, after we left there didn't see any more of the white handkerchiefs. Some few along the road.
Q. Guards have on white handkerchiefs? A. No, sir.
Q. Who was this man that hauled you down to Hartford?
A. Preacher, said he was a preacher and I don't know who the other man was.

Q. What was his name? A. Don't know.
Q. Stroke?
A. Seems like that name, [appeares] like it sounded like that.
Q. Tall, light complected man? A. Yes, sir.
Q. Have a gun in the wagon?
A. Yes, in his hands or under his arm.
Q. Who was driving? A. He was.

Redirect Examination.

Q. Now Mr. Covington asked you about the employees, you know what he meant by employees?
A. No, sir, don't know.
Q. Didn't know what he meant by that word?
2218 A. No, sir."

Mr. Warrum: We waive the recross.

Mr. Drinker: (reading):

"Recross Examination.

Q. You don't know what an employee is? A. No, sir.
Q. You know what means to work for people around a place? A. Yes, sir.
Q. They had a great many guns among those fellows around the mines?
A. I can't tell that, can't tell how many guns.
Q. See any while you were there?
A. Yes, the guards had guns, I mean I did't see them shoot any with the guns.
Q. What kind of guns did the guards have?
A. Can't tell what kind they had, don't know.
Q. You didn't see them load them?
A. No, sir, didn't see any of the cartridges, if I had I would tell it.
Q. You ever heard one of those long range guns until you went to Arkansas?
A. No, sir, until they said they was long range guns.
Q. Who did?
A. Those fellows that captured us and took us out.
Q. Don't know who they were? A. No, sir.
Q. What is the meaning of the word union?
A. They just said they were unions, they told me they were unions.
Q. That's all they said? A. Yes, sir.
Q. That all they said?
A. Yes, said they was unions, said that town was a union town.

Q. That over at the town or on the mountain?
2219 A. Over at town.
Q. These men on the mountain didn't say anything?
A. No, sir, didn't particular tell us they was unions they had guns—
Q. About how many guns you see at the spring?
A. Every man that was down there had them about three of them or more.
Q. How many you see 1500 or 200 there?
A. I guess, in every direction and every where you would see a gang of men.
Q. Everybody had guns and was shooting?
A. No, sir, not everybody, biggest portion of them, then that was not was wanting too.
Q. Did the men around the tip have the same opportunity to know where the shooting was coming from that you had? A. Yes, they was down there.
Q. Then if they say the shooting was at the side of the hill alone, if those working at the mines and tip say the shooting was coming from there across the railroad and that place alone they are mistaken are they?
A. That was the first starting of the shooting.
Q. If they say that they were only firing from this hill side is that correct? A. I don't see into that.
Q. If the men down there on the 17th of July, if they say that the shots that were fired into the mines were fired from the hill side across the railroad and no other shooting from that particular point, is that correct?
A. They are mistaken, because it was all around, surrounded the men that were in there."

2220 Mr. McDonough: We offer the deposition of A. W. McGee taken at the office of Reed & McDonough, Fort Smith, on the 27th day of October, 1917. (Reading.)

"Direct Examination

By Mr. James B. McDonough:
Q. Your name is A. W. McGee, is it? A. Yes, sir.
Q. Where do you live, Mr. McGee?
A. At the present time I live at Booneville.
Q. Where were you living in 1914?
A. In Midland, Arkansas.
Q. What business were you engaged in there?
A. Drug business.
Q. When did you remove from Midland, Arkansas?
A Well, the store is there yet, and belongs to me yet, but I moved from Midland with my family about two months ago.

Q. Did you live in Midland up until two months ago?
A. No, I moved my drug store from Midland about May 1st, 1915, and moved back the first of November, same year.
Q. Are you contemplating leaving Arkansas? A. Now.
Q. Yes. A. Yes, sir.
Q. When do you expect to leave?
A. Well, I expected to leave last Saturday.
Q. Where are you going?
A. I am going to Mississippi.
Q. Did you remain over here at my request until today?
A. Well, I made a trip back here at your request. I went to Booneville Saturday night, and came back last night at your request.
Q. Do you expect to leave Arkansas today?
A. Yes, sir.
Q. In May, 1914, you state you were in the drug business?
A. Yes, sir.
2221 Q. At Midland, Arkansas? A. Yes, sir.
Q. Do you know P. R. Stewart, who was then president of the United Mine Workers of America?
A. Yes. I know him better now than I did then. That was the first time I ever saw him. I did not know who he was until that day.
Q. State whether or not on May 25th, 1914, at or near your drug store in Midland, if you heard a talk made by P. R. Stewart? A. Yes, I heard part of the talk.
Q. State what you heard him say, giving your best recollection of his statements.
A. Well, there was a car drove up in front of the store, and Pete Stewart and Paul Little got out. Paul Little went up to the coal company then, and I was waiting on a customer, and when I got through with the customer I followed the customer out and I heard Stewart say that they were going to have another Colorado down there that morning, and he would furnish all the guns they needed; said they could have the guns if they wanted them.
Q. To whom did he say—whom did he refer to in saying they could have all the guns they wanted?
A. He did not mention any names; just said they."

2222 Mr. Covington: Just read the cross-examination.

Mr. McDonough (reading):

"Cross-Examination

By Mr. Webb Covington:
Q. This was just after the arrest of Riley Bailey, one of the guards at No. 4 mine, charged with insulting a little girl on the road from school, was it not, Mr. McGee?

A. I could not say in regard to that. I do not know Mr. Bailey, and I do not know a thing about that.

Q. Don't you remember that he had just been arrested upon the charge, as I have stated, and that when Pete Stewart stopped in front of your drug store there, some one told him that Riley Bailey, one of the guards at No. 4 had insulted a little girl on the road from school, and in that conversation some remark was made by Stewart about which you have testified?

A. Well, Mr. Covington, I don't know what the conversation led up to, or where it stopped. I just went out, someone came in and I followed him out. I do not know about the other.

Q. Can you give the exact language used by Stewart?

A. That was what he said, just as near as I could remember—as near as I remembered the next day—as near as I can give you.

Q. If they wanted a Colorado, they could have it?

A. Yes, sir.

Q. That's all he said?

A. That's all I heard. I left him talking. He was talking when I went out there.

Redirect Examination

By Mr. James B. McDonough:

Q. Mr. McGee, please state again what he said about furnishing guns.

2223 A. Well, he said they could have guns that wanted them. I am positive of that.

Signature of witness waived."

2224 LEE BISHOP, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name.

A. They call me Lee Bishop.

Q. Where do you live, Mr. Bishop?

A. Now in Joplin, Missouri.

Q. Where did you live in 1914?

A. At Midland, Arkansas.

Q. How long had you been living there?

A. Oh, I was born and raised there.

Q. Do you remember the occasion of hearing Pete Stewart make a speech in front of McKee's drug store in Midland? A. Yes, sir, I believe I do.
Q. When was that?
A. I don't exactly remember the date, it was about the 25th, though, I think.
Q. Of what month?
A. It was in 1914. I don't know what month it was, I don't remember.

A Juror: Talk louder, we can't hear you.

Q. Talk up, Mr. Bishop, so that the jury and all of the counsel can hear you.
A. I don't know what month it was.
Q. For the purpose of refreshing your recollection, did you testify in the contempt proceedings in Ft. Smith?
A. Yes.
Q. Would you say then it was the 25th of May?
A. I believe it was.
Q. Of 1914? A. Yes.
Q. State to the jury what you remember of Mr. Stewart having said on that occasion?
A. Well, he said that if they wanted Colorado trouble, they could get it, as far as I remember.
2225 Q. I can't hear you, Mr. Bishop, speak up louder.
A. He said if they wanted the Colorado trouble they could get it, is the best I remember.
Q. Did he say anything about picking up a gun?
A. Yes, he said he would pick up a gun himself and die before he would see it go on an open shop basis.
Q. Before he would see what go on an open shop basis?
A. The mine.
Q. No. 4? A. Yes.
Q. Who was there at the time, do you remember anyone?
A. Mr. Shelley and Jim Braser and George Howard and Bud Porter and George Barnett and McGee. It was in front of McGee's store.
Q. Do you remember of Stewart saying anything about Riley Bailey? A. Yes, sir.
Q. What did he say about him?
A. That he kicked him in the ribs, in the side.
Q. He said what?
A. I believe he said he kicked him in the side one time and put him out of business.
Q. Did he say where he had done that?
A. I don't remember where he said,—whether it was there or where.

Q. For the purpose of refreshing your recollection, Mr. Bishop, I will ask you if you did not testify in the contempt proceedings that he had fixed him at Jamestown?

A. I believe it was at Jamestown. It has been so long ago that I can't remember the exact statements.

Mr. Hull: That is all.

Cross-Examination

By Mr. Covington:

Q. What was the occasion of him referring to Riley Bailey?

2226 A. I really don't know.

Q. Did you hear all that was said there?

A. No, sir, I didn't hear all that was said.

Q. How was it you didn't hear it all?

A. I was in the store and stepped out just at that time.

Q. Did you hear some of the crowd there tell Stewart that Bailey had just been arrested for insulting a girl coming home from school?

A. I don't remember whether I did or not.

Q. They had him there in that prison (?) and Stewart replied "That is the same fellow that Joe King and another fellow down at the mine beat him up and broke his (Stewart's) ribs and beat him nearly to death"?

A. He said something similar to that.

Q. And that it looked like they were going to have another Colorado here, isn't that the way he said it?

A. Yes, that is the way.

Q. Now, do you say that Stewart said in that conversation that he would die before they should run the mine No. 4 open shop?

A. Yes, that he would pick up a gun and die himself before he would see the mine go on an open shop basis.

Q. Is it not a fact that the mine was not mentioned at all, that he was then discussing with the crowd assembled, six or eight people,—that they were discussing the fact that the citizenship was being run over by Riley Bailey, Dan DeSantis and others down there, employes of the company, that they were discussing that at the time?

A. I don't know, I didn't hear it all.

Q. Didn't he continue to discuss it?

A. Yes, he discussed it.

Q. And when they told him about Riley Bailey, what

2227 he had done, he said, "Yes, that is the same fellow in company with Joe King and others, that jumped on me and beat me nearly to death down in Johnson County and

broke my ribs and laid me up in the hospital"; that is the truth, isn't it? A. He said that Riley Bailey beat him up.

Mr. Covington: That is all.

Witness Excused.

2228 Mr. Hull: If the court please, we offer in evidence the deposition of James Oliver Johnson.

Mr. McDonough (reading):

Q. Your name is J. O. Johnson? A. Yes, sir.

Q. Where do you live now? A. Hutchinson, Kansas.

Q. What business are you engaged in?

A. I am working at a salt plant, as fireman.

Q. How long have you lived in Hutchinson, Kansas?

A. Since the 16th day of August, 1916.

Q. State whether or not you came to Fort Smith at the request of the plaintiffs in this case at this time? A. I did.

Q. Do you know how far it is from Hutchinson, Kansas, to Fort Smith, Arkansas? Do you know about how far?

A. The nearest I could get, the mileage was 373 miles,—the two roads gave me the same mileage, the Midland Valley and the Frisco.

Q. State whether or not you ever lived in Arkansas?

A. I did.

Q. Did you ever live temporarily or otherwise in Fort Smith, Arkansas? A. Yes, sir.

Q. How long did you live in Fort Smith, and when?

A. I lived here a little more than twelve years, from the first of April, 1902, until 1914.

Q. Did you hold any official position in the year 1914, in Arkansas? A. Yes, sir.

Q. State what that was.

A. Deputy United States Marshal.

Q. Who was the United States Marshal at that time?

A. J. F. Mayes.

2229 Q. State whether or not J. F. Mayes, the Marshal sent you to the neighborhood of the Bache-Denman Mines or Hartford in this county, to make any investigation with reference to the mining troubles? A. Yes, sir.

Q. Where did you go?

A. I went to nearly all stations on the Midland Valley Railroad, down there and the Frisco. The line from Jensen to Mansfield, Midland, Greenwood, Prairie Creek, Hartford, Arkole, Huntington, and there is another little station, I forget, between Greenwood and Midland on the Midland Valley.

Q. Excelsior?

A. I am not sure if that's the name. The first station out of Greenwood, going toward Greenwood.

Q. How much time did you occupy in making your trips around over that country?

A. Well, I made different trips,—sometimes I was there a day and night, and some times a part of one day, or part of one night. Put in different hours on the trips, just owing to what I satisfied myself, what I could do on that trip.

Q. Could you give an estimate, Mr. Johnson, of about how many trips you made, and about how often they were made?

A. Well, not very accurate,—I could not.

Q. About over how much time did all the trips extend, naming the months, if you can. A. Well, perhaps a month.

Q. Did you make any trips there in the month of May, 1914?

A. Yes, sir. As well as I remember the most of the trips was made while I was on this work, working under cover.

Q. What do you mean by working under cover?

A. Let no one know what you was up to, who employed you.

Q. State whether or not you were acting under the instructions of the United States Marshal for the purpose of finding out what the situation was down there? A. I was.

2230 Q. Was it or was it not for that reason that you were working under cover, that people would not know the object of your investigation? A. That was the reason.

Q. During the latter part of May, state whether or not you met P. R. Stewart, the President of the United Mine Workers at that time, on a train? A. I did.

Q. State whether or not you had any conversation with him about the injunction that had been granted in the Coronado case and others, that is in the Coal Companies there, the Bache-Denman Companies against any interference with their mines? A. I had a talk with him, yes, sir.

Q. As near as you can, Mr. Johnson, I wish you would give that, speaking loud so the stenographer can get your statements.

A. I don't remember just how the conversation began. He come to me on the train at Greenwood, just as the train was pulling out going toward Hartford, and sat down and began talking with me, and asked me where I was from. I told him I was from Washington County, this state. I told him I was born and raised on the farm. He said something about the trouble down there, and I said I noticed in the papers that the court had granted an injunction against you fellows down there. He says "Dam the injunction". He says "the National Government is agianst us, but the people are with us,

and we are going to win". I says, the company is going to operate their mines with non-union labor, ain't they? No, he says, We do not aim to let them do it. I said, How would he prevent it. I meant by that, the people, the union.

Q. What was his reply, as near as you can give it?

A. He says, "We have got a way; we are not going to let them dig coal,—the scabs." He would not tell me the
2231 way. All his talk was in the way to refuse non-union laborers, and he brought up that subject about the two farmer girls that had been insulted there by the non-union men, as they passed the camps on the public road. The girls were going from school, and these non-union men insulted them, as they were walking along the public road. That is the sum and substance of it.

Q. Did he give you the names of the girls?

A. If he did, I have forgotten. I remember asking him if he knew who they were, and he said, yes. I remember that, but whether he told me the names of the girls, I do not remember, but I don't believe he did.

Q. Were there any other non-union miners to your knowledge, in that community, except those that were working at the Bache-Denman Mines? A. I don't know.

Q. Did Mr. Stewart at that time say anything to you about being President of the United Mine Workers?

A. He told me he was.

Q. In all that conversation, what was his attitude toward scab labor or non-union labor? A. Very bitter.

Q. Did he in that conversation, make any further reference to the court or the injunction other than what you have already said, in which he said "Damn the injunction"? Did he make any further statement than that?

A. That's all I remember.

Q. Mr. Johnson, on that same day, state whether or not you heard a conversation between some union men at Midland.

A. I did.

Q. I wish you would state what that was.

A. There were three different men at the Frisco depot at Midland, leaning against trucks that was used to haul bag-
gage to put on the train and off of it, and it was a real
2232 dark night, after dark, perhaps 8 o'clock or after, and I took myself up on the other side of the trucks and leaned against them and listened, and the subject was being discussed between the three men.

Q. What subject?

A. The working of the mine No. 4 with scab labor. And the first remark I heard"—

Mr. Warrum: We object to that; there has been no identification of these men.

The Court: The objection is sustained.

Mr. Drinker: Will you hear us on that?

The Court: No, sir, unless you can lay the foundation.

Mr. Drinker: Their remarks show they were compelled to get an injunction against these men as conspirators at the time of the conspiracy.

The Court: We will not have any discussion on that.

Mr. Hull: If I remember, the deposition, in the cross-examination, shows that they were union men.

The Court: Then read that part of the deposition and lay your foundation first.

Mr. McDonough: I will pass that for the present, anyway. The next question is (reading):

"Q. During the trips that you made down there, during that time, did you talk with union men a great deal?

A. Yes, sir.

Q. What was the attitude or bearing of those union men with reference to whether or not these Bache-Denman Companies would be permitted to work their mine with non-union labor?

A. They would not; that was the expression everywhere. They was not going to allow them to work their mines with non-union labor.

Q. On the train during one of your trips state whether
2233 or not you witnessed some trouble between union men and non-union men. A. I did.

Q. Who began that trouble? A. The union men.

Q. State what the trouble was.

A. The union men wanted to know if the non-union men where they were going. The trouble was that they did not want the non-union men to go down there, and work at that mine. That's what the trouble was about.

Q. Did they come to blows? A. No, but very near it.

Q. Did anybody interfere to prevent trouble?

A. Yes, sir, I did.

Q. Anyone assist you in keeping down the trouble?

A. No, sir.

Q. Did you know the names of the union men or any of them?

A. I learned the name of one of them afterwards. I did not know at that time. It was just a short while after that,

a few minutes after that, I learned the spokesman of the crowd of union men.

Q. What was his name? A. Stanfield.

Q. Do you know the names of any of the non-union men?

A. Not at that time.

Q. Did you learn [they] afterwards?

A. Some of them, yes, sir, perhaps all of them, but I do not remember all of them.

Q. Do you remembr any of them now?

A. I remember one Herman Tipton.

Q. Do you know the first name of Stanfield?

A. I cannot call it now, but I did.

Q. Was it Marvin? A. Yes, sir.

Q. Do you at the present time hold any commission
2234 from the United States Government? A. Yes, sir.

Q. What commission do you hold?

A. I hold commission as deputy special [offcer] of the Department of the Interior.

Q. Have you your commission with you?

A. Yes, sir. (Exhibits commission to counsel).

Q. Did you hold a commission similar to that in 1914?

A. Yes, sir.

Q. State whether or not it has been renewed from time to time from that day to this?

A. Nearly yes. They are only issued every twelve months.

Q. In your response to Mr. Stewart, you first told him that you lived in Washington County, Arkansas at that time?

A. No, prior to that time. Yes, sir, I said I was born and raised there, never lived anywhere else, except here.

Q. Is that what you told him, that you were born and raised on a farm? A. Yes, in Washington County.

Q. And that was a fact that you were born and raised on a farm in Washington County, Arkansas? A. Yes, sir.

Q. What is your age now, Mr. Johnson?

A. 58 years old."

Mr. Warrum (reading):

"Cross-Examination

By Mr. G. L. Grant:

Q. What were you doing in Fort Smith from April, 1902 to 1914? What were you doing here?

A. I began working at the United States jail at the guards on the 22nd day of April, 1902, and worked until September, 1902, and then took the position as turnkey.

Q. How long did you hold that position?

A. Well, I cannot tell exactly. That was under Marshal Stall, and when he went out of office, I took the position as jailer.

2235 Q. United States jail? A. Yes, sir.

Q. How long did you hold that position?

A. I held it as long as it was a prison.

Q. When did it cease to be a prison?

A. I do not remember the year, the 15th of July, but I forget the year. 12 or 13.

Q. [What] it one of those years, 1912 or 13?

A. I am not sure, but I think it was.

Q. Have you any data by which you could refresh your memory? A. I have not.

Q. What did you do after that?

A. I was appointed Deputy United States Marshal.

Q. By Frank Mayes? A. Yes, sir.

Q. When were you appointed Deputy United States Marshal by him? A. In September I think.

Q. What years?

A. After the prison ceased to be a prison, the same year.

Q. Then how long did you hold that position?

A. I held it as long as Mayes was in office.

Q. When he went out of office, you went out with him?

A. Yes, sir.

Q. Who was it sent you out as a detective to gather up the information that you have told Mr. McDonough about in your direct examination? The United States Marshal?

A. Frank Mayes, yes.

Q. What did he tell you to find out for him?

A. He wanted me to learn conditions as they existed up there, as far as I could, between the union miners and the non-union miners.

Q. Were you a member of the union? A. No, sir.

2236 Q. Are you a coal miner? A. No, sir.

Q. Do you know anything about any of the unions?

A. Only what I learned down there.

Q. Do you know who any of the members of the United Miners are in that district? A. Yes, sir.

Q. Who are they? You have been sitting us here swearing about what you know about members of the Union, and I want you to tell me what you know about them. Who are some of the members of the United Mine Workers of America? A. I only know from what they told me.

Q. You could not swear; then you must admit that those persons whom you have just testified as being members of the miners union are not members so far as you personally know? A. No, sir.

Q. They said they were members?

(By Mr. McDonough):

A. Yes, sir.

Q. Members of what? A. Miners Union.

Q. What miners union? A. Coal miners.

Q. What coal miners? There are a whole lot of unions.

A. I dont know.

Q. You do not know what they were members of?

A. No, sir.

Q. You do not know whether they were members of the United Mine Workers of America? Do you know?

A. I told you no.

Q. You no not know whether they were members of the United Mine Workers of America. Do you know whether they were members of United Mine Workers of America, District No. 21? A. They said they were.

Q. No. 21? A. Yes, sir.

Q. United Mine Workers of America, District No. 21?

2237 A. Yes, sir.

Q. That is all you know about it? A. Yes, sir.

Q. You do not know the names of any of the members, do you?

A. Yes, Clint Burrus, I can name some of them.

Q. What did Clint say he was a member of?

A. Coal miners union.

Q. Did he say what union? A. Coal miners.

Q. Did he say a member of the United Mine Workers of America, District No. 21? A. I know that it was No. 21.

Q. Did he say that he was a member of the United Mine Workers of America, District No. 21?

A. He said he was a member of District 21.

Q. What was it he said, state it so she can get it down.

[Q.] You have asked me so many questions,—

Q. You have not answered any, in my opinion.

A. No, he did not tell me that.

Q. Did any member any person down there tell you or anyone, he was a member of District No. 21 United Mine Workers of America?

A. They did not use the words United Mine Workers of America, District No. 21. If they did I have forgotten.

Q. Then you would not undertake to say here under oath, as a witness that any person that you referred to as a member of the Miners Union was a member of the United Mine Workers of America, District No. 21, to your own personal knowledge, would you?

A. No, sir, not using that very sentence.

Q. And as I understand you, you would not swear upon your oath that any man you referred to as being down there at the time you say these things happened, was a member of the United Mine Workers of America, would you?

A. No, sir.

Q. When did you leave Sebastian County, Arkansas?

A. When did I leave here?

2238 Q. Yes.

A. I left here in February, 1914.

Q. Where were you living in Fort Smith from the time you ceased to be deputy United States Marshal until you left here, in Ft. Smith?

A. Where did I live? I was boarding, first at one place, and then another; north seventh [stree], north eighth street, three different places.

Q. Are you a man of family?

A. Yes, sir, have children.

Q. Have you a wife? (No answer).

Q. Were your children with you during the period of time I have just asked about? A. No, sir.

Q. Where are they now? A. I could not tell you.

Q. When you left Fort Smith in February, 1914, I believe you say, where did you go to?

A. I first went to New Mexico.

Q. What did you do there? A. Nothing.

Q. Who did you go with A. I went alone.

Q. Where did you stop in New Mexico?

A. Albuquerque.

Q. How long did you remain there?

A. Three or four days.

Q. What did you do while there?

A. Nothing, I told you.

Q. Where did you go from there? A. Colorado.

Q. What part of Colorado? A. Colorado, Springs, Pueblo.

Q. When you went to Colorado Springs,—was that the first place you went to after you left Albuquerque?

A. Yes, sir.

Q. What time did you get there?

A. I dont remember.

Q. How long did you stay there?

A. I do not know, perhaps a week.

Q. What did you do there? A. Nothing.

Q. Were you seeking employment at Albuquerque, or in Colorado?

2239 A. I was looking around seeing what I could find that would suit me.

Q. Where did you go from that place? From Colorado Springs?
A. I stopped there after I left Albuquerque.
Q. You left there, didnt you? You are not there now. Where did you go after you left Colorado Springs?
A. I went to Pueblo.
Q. When did you get to Pueblo?
A. I cant give you the date.
Q. In February or March, 1914?
A. I do not know whether it was February or March.
Q. Was it in one of those two months?
A. Yes, sir.
Q. How long did you stay there? A. About a month.
Q. What did you do while there? A. Nothing.
Q. Did you board there? A. I did.
Q. With whom?
A. I cannot tell you the family name now. I boarded at a private house.
Q. Dont know the name? A. No, sir.
Q. Do you know what street it was on, the number of the house?
A. I think it was in the five hundred block on Broadway, I think it was.
Q. Man or woman run the boarding house?
A. A man and his wife? I suppose they both ran it.
Q. Do you know their names, do you? A. No, sir.
Q. When you left there, where did you go?
A. Western Kansas.
Q. What part of Western Kansas?
A. Hodgeman County.
Q. When did you get there?
A. I dont know. I was quite a ways,—had quite a time getting there.
Q. What was the matter that it took you so long to get there?
2240 A. Well now I want to ask a question?
Q. I want you to answer my questions. Why did it take you so long to get there?
A. Is it any reason why that anybody should know anything about my private business.
Q. You are a witness, and I want you to answer my questions.
A. Simply because I could not go fast.
Q. What was the matter? A. I could not ride.
Q. What were you going to that place for?
A. I was hunting employment.

Q. What kind of employment?
A. Anything I could get to do to make an honest living.
Q. Who did you stop with in that county?
A. Do you want to know the name of every person I stopped with?
Q. If you can give it. A. I cannot do it.
Q. Name some of them? A. One Ross Whitman.
Q. Near what town?
A. About fifteen miles northwest of Jetmore,—the closest town.
Q. What was his business? A. He was a farmer.
Q. Did you get employment with him? A. Yes, sir.
Q. For how long? A. Twelve or fifteen days.
Q. What did you do? A. Worked in the wheat harvest.
Q. When you left his place where did you go?
A. I worked on a thrashing machine.
Q. Where? A. Around about there.
Q. How long? A. Until about the 15th of September.
Q. Then where did you go? A. I came to Arkansas.
Q. What part of Arkansas? A. Washington County.
Q. What part of Washington County?
A. Well, about, it was close to the southern part.
Q. What did you do there?
A. I lived with my sister.
2241 Q. For how long? A. Until last June.
Q. Then where did you go? A. I went to Kansas.
Q. What part of Kansas? A. Great Bend.
Q. What did you do there?
A. Helped with a thrashing machine.
Q. Whose? A. Peter Pfister.
Q. How long did you stay there with him?
A. Until the 11th or 12th of August this year.
Q. What did you do during that time?

Mr. McDonough.—You mean last year, dont you, not this year, this is only March.

Mr. Grant.—Let the witness answer the questions. He is an intelligent man.

Q. You left there when? Left Mr. Pfister's when?
A. 12th of August, 1917,—No, 1916."

Mr. Warrum: Now, we will omit from this last answer down to this question (reading):

"Q. Who was the first person you met to talk with about this case, after you arrived in Fort Smith?
A. Mr. Bache and Mr. Finley.

Q. Where, at their office? A. Yes, sir.
Q. What time today did you have that conversation with them? A. About 10 o'clock, I guess.
Q. How happened you to come here?
A. At their request.
Q. Did they request you in writing? A. Yes, sir.
Q. What became of the letter? A. I tore it up.
Q. What was in it?
A. They requested me to come as a witness in this case.
Q. Who is paying you to come here?
2242 A. No one said they would pay me.
Q. Are you expecting pay? A. I certainly do.
Q. What do you expect? A. What the law allows me.
Q. Did they tell you that? A. No, sir.
Q. You expect pay for your time? A. Yes, sir.
Q. How much do you expect for your time?
A. What the law allows me."

Mr. Warrum: We will omit the remainder of the cross-examination.

Mr. McDonough: If the court please, I now want to read the omitted portion from page 14, in the cross-examination, as follows (reading):

"Q. Where did you go from there?
A. Hutchinson, Kansas.
Q. What time did you get there? A. The same day.
Q. What did you then do? Did you go to work immediately, at the same employment you are now engaged at?
A. On the 16th of August.
Q. And you have worked as fireman at that salt plant ever since?
A. Yes, but not as fireman all the time.
Q. Have you worked continuously, up to this time?
A. Yes, sir.
Q. When did you leave there to come to Arkansas?
A. Thursday evening at 4 o'clock.
Q. When did you get here? A. 10:30 last night.
Q. When did you get to Mr. McDonough's office today?
A. About two or three minutes before you came in."

Mr. McDonough: Next, the omitted portion from page 15. The last answer read was, "What the law allows me."

The omitted part is as follows (reading):

"Q. Is that what you expect for your time? Do you expect what the law allows you for your time?

2243 A. Yes, sir.

Q. Have you investigated, through Mr. Hull or anyone else, what the laws allows you?

A. I have not said a word about it.

Q. Now then, you have been holding this commission to help locate violators of the liquor laws in Oklahoma. Is that the object of that commission? A. Yes, sir.

Q. How long have you been holding it?

A. I dont remember the year of the first one.

Q. With all this rambling you have been doing since February, 1914, have you worked any on that job, trying to suppress liquor in Oklahoma? A. No, sir.

Q. How happened you to get that appointment to try to suppress liquor, if you were not working on that job?

A. I cannot tell why; they just sent me the commission. At the expiration of one, a new one came.

Q. You say those commissions last for a year?

A. Yes, sir.

Q. Where were you when you received this last one?

A. I was at Great Bend, Kansas.

Q. And they sent it to you by mail, without your requesting it? A. Yes, sir.

Q. How did the government know where you were?

A. They sent it to Fort Smith, and it was forwarded to me.

Q. Oh, it was forwarded to you from Fort Smith?

A. Yes, sir.

Redirect Examination

By Mr. James B. McDonough:

Q. Mr. Johnson, in making your statement as to the time you left here, Fort Smith, you said it was in 1914. I want to ask you whether you meant February 1914 or Feb-

2244 ruary 1915. To refresh your memory, I call your attention to the fact that you testified about making these trips down here in May, 1914.

A. Yes, yes, I left here, it was in 1915 when I left here, because this work was done in 1914.

Q. Do you remember the time of the great trouble down there in February, 1914? A. Yes, sir.

Q. Then it was after that, the February following that that you left? A. Yes, sir.

Q. It would be February, 1915? A. Yes, sir.

Mr. McDonough: Then the deposition of J. O. Johnson was continued the cross-examination. Do you want to read the cross-examination, Mr. Warrum?

Mr. Warrum: We will waive the reading of it.

Mr. McDonough: Then we will read it. (Reading):

"Q. Mr. Johnson, when you were testifying in your examination on the 24th day of March, 1917, you testified something about someone talking to you at Mine No. 4 with reference to digging coal with scab labor, and that they said they did not aim to let them do that. Do you remember that testimony?

A. I did not say it was at Mine No. 4. The conversation taken place at the Frisco Depot.

Q. Who was it made that statement?

A. I don't know.

Q. He asked you, I believe you said, if you were a miner and you told him no?

A. No, That bunch of men had nothing to say to me whatever.

Q. Who was it asked you if you were a miner, and you told him no? A. Some boy, I don't know his name.

Q. You don't know his name A. No, sir.

Q. He asked you if you were a scab? A. Yes sir.

Q. You asked him what he meant by scab?

A. Yes, sir.

2245 Q. He said a man that did not belong to the union?

A. Yes, sir.

Q. You don't know who that man was?

A. That boy?

Q. Yes. A. No.

Q. He was one of the persons you were testifying about the other day when you gave your deposition?

A. Yes, sir.

Q. How long after you had the conversation with the boy was it before you overheard the conversation between some parties at the Frisco Depot, at Midland, about which you testified on the 24th of this month?

A. I don't know whether it was before or after that. I cannot say.

Q. How many men were in that conversation?

A. Three.

Q. Do you know who they were? A. No, sir.

Q. You do not know? A. No, sir.

Q. I believe you testified the other day those three men were union men? A. They said they were.

Q. That is all you know about their being union men, is what they said? A. Yes, sir.

Q. You don't know their names? A. No, sir.

Q. You don't know what union they belonged to, if they were union men? A. No, sir.

Q. I believe you testified the other day that you knew Clint Burris? A. I did.

Q. Did you testify the other day that you knew any of the balance of those persons down there?

A. Yes sir, Jno. Manick.

Q. Who else did you testify that you knew besides Clint Burris?

A. I did not testify that I knew anybody else the other day. You did not ask me.

Q. You did not testify anything about John Manick,
2246 either on questions asked you by Mr. McDonough or on questions asked by me? A. I don't remember.

Q. Did you say you had a talk with Clint Burris?

A. I had numerous talks with him.

Q. Did you testify the other day on Mr. McDonough's questions about what Clint Burris said.

A. I don't believe I did? I am not sure.

Q. You did say the other day what you heard them say? The men you took to be miners—you were under the impression they were hostile to the non-union men?

A. Yes, sir.

Q. Now then, in making that statement, did you take into account what Clint Burris had said to you?

A. Yes, sir.

Q. Now you testified in the case of United States vs. Peter Stuart, et al, that Thursday, July 2nd, 1914, in the United States Court room in the City of Fort Smith before Judge Frank Youmans, did you?

A. I testified. I do not remember the day or month.

Q. It was in that trial? A. Yes sir.

Q. About that time of the year? A. Yes, sir.

Q. Do you remember making this statement:—"Well, I talked with Clint Burris and John Manick several times down there, a time or two, but there was no threat made at all." Do you remember giving that statement? A. I do.

Q. Is that true, you made that statement?

A. Yes, sir.

Q. And did you further state that they said they would rather they would not work there, they did not say that should not? Do you remember making that statement in your testimony?

A. I don't remember just all my statements.
2247 That is substantially correct, is it?
A. Yes, sir.
Q. You further stated that Clint Burris said that he had some friends over there he would like to talk to, and show them they were doing wrong. Do you remember that statement, and is that statement substantially correct?
A. Yes, sir.
Q. And it is true? A. Yes, sir.
Q. Do you remember the question asked you, "Did Sandy Robinson say anything about it?" You answered "No". Do you remember that question and answer? A. No, sir.
Q. If that question was asked you and you answered no, that is correct, is it? A. Yes, sir.
Q. And you say the same thing now?
A. If I said it then, I say it now.
Q. I am asking you if you say it now?
A. About what?
Q. I will read you the whole answer you made before. "Well, I talked with Clint Burris and John Manick several times down there, a time or two, but there was no threat made at all. They said they would rather they would not work there. They did not say they should not. Clint Burris said that he had some friends over there he would like to talk to to show them they were wrong. That is about the statement that was made to me.
Q. Did Sandy Robinson say anything about it.
A. No." You say that now? A. Yes, sir.
Q. Do you remember the question being asked you what did Manick say, if anything? Your answer was "About on the same line that Burris was talking". That is what you say now? A. Yes, sir.
Q. Do you remember that question? "While you were there, or going to and from there, state whether or not at any time you saw any difficulty between the employees
2248 of this company that were working there on the open shop, and the union miners." You answered, "I did not see any trouble that amounted to anything at all". Do you remember that statement and do you say the same thing now? A. Yes, sir.
Q. Now, Saturday you testified with reference to some trouble that occurred on a train, you spoke about union miners being in trouble on the train. Do you know the names of those persons?
A. I did not then, and never did learn the names of any but one of them.
Q. Whose name? A. Marvin Stanfield.

Q. Now then, do you know what miners union they belonged to? A. No, sir.
Q. And all you know about their being union miners is what you heard someone say, or what they said?
A. Yes, that's about all I know.
Q. Did Marvin Stanfield claim to be a union miner?
A. Yes, sir.
Q. But you do not know whether he was a union miner or not? A. No, sir.
Q. When did you first know that you were coming here to give your deposition in this case, Mr. Johnson?
A. I can't tell you whether it was a week before yesterday or tomorrow.
Q. Did anyone interview you or talk with you personally about this case before you came down here to testify?
A. No, sir.
Q. Did anyone write you any letters with reference to your coming here, and testifying, before you were notified?
A. I got a letter.
2249 Q. Did Mr. Roger B. Hull call on you in Hutchinson, Kansas, or any where else, with reference to what you would testify? A. No, sir.
Q. He did not come and see you? A. No, sir."

Mr. McDonough: That is the end of the continuation of the deposition. If your Honor please, we will now turn back to page 5. I understood the court had not finally ruled on that. We would like to offer it again after the other examination is all in, re-offer that part.

Mr. Warrum: The defendants separately renew their objection.

The Court: I will make the same ruling as made. I do not think that this is competent. I think the testimony connecting these men up is too indefinite.

Mr. Drinker: This testimony shows they were in this conspiracy.

The Court: The objection is sustained and it is excluded.

Mr. McDonough: I want to call the court's attention,—

The Court (interrupting): I know just what is there in the testimony. My ruling is made.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

(The portion so excluded by the court is as follows:

"Q. What subject?
A. The working of the mine No. 4 with scab labor. And the first remark I heard was "that company is a damned fool for undertaking to work that mine with scab labor", and another one of them said "we have got them out now, and we are going to keep them out, and if we have to fight we will fight. It may cost blood and a few lives, but we will give it as free as we drink water". The train run in then, and I got on the train and went home.")

2250 MRS. PREDDRO BROWN, called as a witness on behalf of the plaintiffs, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hull:
Q. What is your name, Mrs. Brown?
A. Preddro Brown.
Q. You are the wife of Levi Brown? A. Yes, sir.
Q. Were you living at Prairie Creek No. 4 in the Spring of 1914? A. Yes, sir.
Q. In April? A. April 6th.
Q. Do you remember the day of the riot, when the men came in to the property of No. 4? A. The first time?
Q. Yes. A. Yes, sir.
Q. State whether or not your husband was sick on that day.
A. Yes, sir, he was sick.
Q. How long had he been sick?
A. He had been sick all that night before; they made the riot the next morning.
Q. Sunday morning? A. Yes, sir.
Q. Had he had a doctor practically all that night?
A. Yes, sir.
Q. Was he in bed when the men came on the property?
A. Yes, sir.
Q. Did you see that crowd gather there at the school house? A. Yes, sir, I seen them.
Q. About how many people were there, if you know, over there?
A. I imagine it was just about 500 or over, from what I could see.
Q. Did the crowd come down to the mine and to the shaft and around the shaft there? A. Yes, sir.
2251 Q. Where were you living at that time?
A. I was living in the cook shack.
Q. In the cook shack? A. Yes, sir.

Q. Where was that with reference to what they call the bunk house?

A. The bunk house was just a little piece from the cook house.

Q. A few feet? A. Yes, sir, just a little.

Q. And how far was the cook shack from the tipple of No. 4?

A. I don't know just exactly how far it were, but it was not but just a little ways.

Q. A little ways—can you indicate?

A. As far as from here to the back of the house.

Q. To the back of this room?

A. Yes, sir, it might have been a little bit further.

Q. Now, do you remember, while your husband was in bed that day, and while the crowd was on the property, do you remember the crowd coming to the door of the cook shack?

A. Yes, sir.

Q. What, if anything, did they say or do?

A. They just cursed and wanted to come in the house, and beat my husband up.

Q. What did they call him, if anything?

A. They called him a scab?

Q. Any other names? A. Yes, sir.

Q. You need not repeat them. A. All right.

Q. Did they get into that room?

A. No, sir, they didn't come in.

Q. What did you do to keep them out?

A. I just stood in the door with a butcher knife.

Q. How old are you, Mrs. Brown? A. I am 22.

Q. You had a child at that time? A. Yes, sir.

2252 Q. You have three children now? A. Yes, sir.

Q. Was the child there at that time? A. Yes, sir.

Q. In the room? A. Yes, sir.

Q. Later that evening, do you remember other men coming to the door of the room where your husband was sick?

A. Yes, sir, late that evening there were men gathered there.

Q. Had you gone to bed?

A. No, sir, not in the evening, I had not.

Q. When these men came, you were not in bed?

A. No, sir, that evening I was not, but it was that night when the men came.

Q. I am not used to calling the afternoon evening. I mean in the night. A. Yes, sir.

Q. You had gone to bed when those men came to the cook shack? A. Yes, sir, that night.

Q. Your husband was in bed? A. Yes, sir.

Q. What did those men say and do at that time, how many men were there?

A. There were three came in the house, I don't know how many there was on the outside, I never got up and looked.

Q. Three men came into the house? A. Yes, sir.

Q. What did they do?

A. They were hunting for company guns.

Q. For what? A. Company guns.

Q. What did they say?

A. They wanted to know before they came in if there were any company guns.

Mr. Warrum: The defendants severally desire to object to this evidence, because there is no suggestion of identification of these parties.

The Court: Objection overruled; this is the res gestae, it happened down there around the mine, on the property.

2253 To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Q. What did these men say?

A. They were hunting for company guns, and wanted to know if there were any company guns in the house, and we told them no, and they said they could come in and see, and my husband told them there was a little pistol there, one that we had, and they came in, and we told them that they could have it if they wanted it, and they came in and searched all around, and tore up the beds, and taken the pistol, and took one little load out of it, and threw it down on the table and walked out.

Q. Did they tell your husband to throw up his arms?

A. Yes, sir, they said that before they came in.

Q. Did you that night see anything of a fire on the tipple?

A. Yes, sir.

Q. State what you saw in that connection?

A. They had been gone about a half an hour, and then we seen the fire on the tipple.

Q. Did that fire burn the tipple up?

A. No, sir, there came a rain right away after it blazed up, and put the fire out.

Q. Did you hear any one on the tipple, walking up the steps, or on the tipple just before that? A. Yes, sir.

Q. Do you know what others employees were at the mine, if there were any there besides yourself and your husband at that time? A. Around the mines?

Q. Around No. 4, had the employees left?

A. Yes, sir.
Q. Before night? A. Yes, sir.
Q. You and your husband, so far as you know, were
2254 the only ones there?
A. Yes, sir, we were the only ones right there at what they call the bunk house.

Cross-Examination

By Mr. Covington:
Q. Mrs. Brown, how long did you remain there?
A. After the riot?
Q. Yes. A. We stayed until the next morning.
Q. Until the next morning? A. Yes, sir.
Q. Was there any crowd around the mine that morning?
A. No, sir.
Q. No one at all? A. No, sir.
Q. What time of night was it did you say, that the tipple was set on fire?
A. Why, I don't know, but I think it was about 9:00 or 10:00 o'clock, somewhere along there, we didn't have no time piece, and I can't say just when it was.
Q. How long did it burn?
A. It didn't burn but just a few minutes.
Q. About how long?
A. I guess three or four minutes. It burned enough to burn a big spot in the tipple.
Q. Did—at what point on the tipple?
A. On the top of the tipple, I reckon, I never went up there, I just seen the fire up there.
Q. Seen the fire? A. Yes, sir.
Q. Were you ever up there?
A. No, sir, I never were up there.
Q. How did you make your examination?
A. I seen the fire, I am saying what I seen.
Q. Did you see where it had burned, after it went out, or was put out? A. No, sir.
Q. How do you know then it burned?
A. I don't know, I seen the fire up on the tipple, we
2255 knew it was up there.
Q. You were just guessing at that? A. Yes, sir.
Q. Where was Mr. Brown?
A. He was in the bed sick.
Q. Where is he now?
A. He is at the hotel where we are boarding right now.
Q. Here in town? A. Yes, sir.
Q. Where else have you been besides the mines?
A. We have been at Braden, Oklahoma—not Braden, but Valiant, Oklahoma.

Q. How long had you been at this particular mine?
A. We went there on Saturday, and this happened on Monday.
Q. You came from Braden, Oklahoma, over here?
A. Yes, sir.

Redirect Examination

By Mr. Hull:
Q. What were you to do there at the mine, Mrs. Brown?
A. I was to cook.
Q. You were to cook at the boarding house?
A. Yes, sir.
Q. Your husband, is now taking care of the three children? A. Yes, sir.
Q. Will you tell your husband to come right over here as soon as you get back? A. All right.

(Witness excused.)

2256 HARRY DUNLAP, called as a witness on behalf of plaintiffs, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hull:
Q. State your full name, Mr. Dunlap?
A. Harry Dunlap.
Q. Where do you live? A. Clarksville.
Q. Clarksville, Arkansas? A. Yes, sir.
Q. How long have you lived there?
A. I was born there.
Q. Born and raised there? A. Yes, sir.
Q. What are you doing now?
A. In the horse and mule business.
Q. What time, if you remember, did you go to work for the Bache-Denman Coal Company, in the spring of 1914?
A. About the 20th of April, I think it was right at the 20th of April.
Q. Do you remember one day when you and Charley Cheek were coming to Fort Smith, and that you were waiting up at Burma station, and something occurred there? A. Yes, sir.
Q. About what time was that?
A. I don't remember just what time of the day it was.
Q. Was it near the time you went to work or near the day of the big battle?
A. It was during the time I was at work.
Q. Soon after you went to work? A. Yes, sir.
Q. State what occurred at the station.

A. Charley and I went over there, and there was a crowd over there, must have been thirty or forty men, and they asked where we lived, and what we were doing there, and we told them that we were living at Fayetteville, and they told us about this trouble that they had been having trouble
2257 there, and we told them we heard about it, but didn't know anything about it.

Q. Who was in that crowd?

A. I didn't know that crowd that was there.

Q. Did you hear any remarks about Langford at that time?

Mr. Warrum: The defendants separately object to the evidence offered to be introduced by this question, because it calls for conversation with parties not identified by the parties at the town called Bermur, and I don't know that it is in the record where Bermur is.

The Court: Is this the same conversation at which Mr. Cheek testified?

Mr. Hull: I don't know whether it is or not, I don't think at the time Cheek's deposition was taken I knew about this.

The Court: Do you propose to follow this up?

Mr. Hull: If I can refresh his recollection,—

The Court: Lay your foundation. The objection will be sustained at this time.

Q. Do you remember telling me on the 3rd of September, that Jim Slankard was there at that time?

A. Yes, sir, Jim Slankard was there. He was the only one I think that I knew at the time.

Q. If that is sufficient foundation, if not I will not press it.

The Court: It is sufficient to show what he said; Slankard has been identified right along.

Mr. Hull: To show what was said in his presence, or will you limit it—

The Court: To what he said.

Q. Do you remember what was said about Langford or said by Slankard or by somebody else?

2258 A. It was said by Slankard, but it was said near the city, as we were coming in on the train from Bermur, in to town.

Q. State what was said by Slankard as you were coming in from Bermur?

A. It was just as we were coming in to town, someone [make] the remark, I think Sandy Robinson, or Clint Burris,—

they saw Langford standing there, and Slankard said we will fix those scabs too, and they were talking about the fellows down at the bull pen, where we worked.

Q. And Sandy Robinson and Jim Slankard were on the train coming into Fort Smith?

A. Yes, sir, on the train.

Q. Now, on or about June 10th, do you remember the incident at Prairie Creek Station when some bags of chops were cut? A. Yes, sir.

Q. Will you state who was present, and what happened at that time?

A. There was Jim Slankard and Sandy Robinson and Clint Burris, was about the only ones that I knew there, and that feed was being unloaded there, hay and chops and things, and this feed was put off, and after it was put off, the train I noticed it was cut all to pieces, the sacks were.

Q. Did you see any trouble between any of your co-employees and Sandy Robinson and his crowd?

A. Yes, sir. There was a crazy boy and Sandy Robinson got into it. This crazy boy drawed a gun on Sandy Robinson and told him, he said "If you touch me I will kill you" and Jim Slankard said, "We will have him arrested for drawing that gun on you". Jim Slankard was standing there, and he said, "We will have him arrested for drawing that gun."

Q. Do you remember one night about a week or ten
2259 days before the battle, that you and Charley Cheek were sent out to the high tension line? A. Yes, sir.

Q. Will you state what happened there that night?

A. Charley and I had been sent out there to guard the wire, it had been cut before, a number of times, and we were sent out to guard the wire. There was a bunch around the post, right there, and Charley and I was down below in a little ravine, and there were two fellows come walking right down towards us, and we threw our guns on them, and got one of the fellows, and took him into camp. There were quite a bunch of them.

Q. Who did you meet at the gate of the property, if anyone? A. Mr. Langford and Mr. Chitwood.

Q. Did you meet Mr. Holt? A. Yes, sir, Jim Holt.

Q. What position did Chitwood and Holt hold, if any?

A. They were United States Marshals.

Q. What did you do with his man Berkell?

A. We turned him over to Mr. Chitwood and Mr. Holt.

Q. Do you know what they done with him?

A. No, I did not, I went to bed.

Q. Where were you when you encountered this man Berkell?

A. We were just right below the school house; we were up near the main road, below the school house.

Q. How many men were there up at the pole?

A. There must have been 15 or 20, maybe a few more than that.

Q. How far were you and Creek from the pole?

A. Oh, we were 200 yards, I guess, or maybe three.

Q. How did it come that you uncovered yourselves there?

A. We had a dog with us there, and this dog began
2260 barking, and those two fellows walked away from the crowd and down to us.

Q. What became of the second man?

A. He run; he shot right at us, and ran over, and Berkell stopped, the big fellow.

Q. In that crowd of men at the post, did you see one or more of them doing anything at the post?

A. They were just all congregating around this post. Of course we knew what they were there—

Q. (interrupting.) You need not say what you knew or supposed. A. No.

Q. Did you ever—what was your job at No. 4?

A. Well, I was just handy man, anything they wanted me to do.

Q. You guarded? A. Yes, sir, at times.

Q. What was your post?

A. Well, I worked at different places, sometimes No. 3 and sometimes No. 4; I worked at both places.

Q. No. 3 was over between No. 4 and Frogtown?

A. Yes, sir.

Q. Did you ever go over to Frogtown and shoot the place up? A. No, sir.

Q. Did you ever know of any other guards from No. 4 going over there? A. No, sir.

Q. Do you remember that Sunday night before the battle when our guards are charged with having shot up Frogtown?

A. Yes, sir.

Q. Did you hear shots over there? A. Yes, sir.

Q. Where were you guarding that night?

A. At No. 3, between No. 4 and Frogtown.

Q. You were guarding at night, at that time?

A. Yes, sir.

Q. Did you go over to Frogtown and shoot the place up that night? A. No, sir.

2261 Q. Were you there on the day of the battle?

A. Yes, sir.

Q. Will you describe what happened on July 17th?

A. Well, about some time in the morning, three or four o'clock, the lights went out; it might have been earlier than that, and there was several shots fired into the camp then, and then there was nothing more of it then until 8:30 in the morning, when they began to shooting into the camp from all sides. I came over to No. 4 then, and they sent me back over to No. 3 to tell the guards to stay on duty, until they were relieved and when I got back to No. 3, you could see men scattered all around over there, and right shortly after that is when they began shooting into 3 and all around.

Q. Did you help get the women and children out of No. 3?

A. Yes, sir.

Q. What did you do with them?

A. Took them to No. 4, the biggest part of them.

Q. About what time did you leave the mine?

A. About 12:30 or 12:00 o'clock or 12:30.

Q. With whom did you leave? A. With Bud Porter.

Q. The day after the battle did you go down to the school house? A. Yes, sir.

Q. Who was there when you got there?

A. Well, old Man Howard was there, he is the only one I would recognize. There were 75 or maybe more, 60 or 75 men there.

Q. Do you know his name?

A. No, I don't. It was old man Howard, he lived up above the mine.

Q. Was it John Howard?

A. I think it was John Howard; he lived up above the mines.

2262 Q. Who was with you?

A. Mr. Love, and Mr. Bailey, and my brother, they were all from home over there.

Q. What did you say to this crowd in which old man Howard was?

A. Well, Mr. Love told old man Howard, he said, "I understand there were two boys killed over here, and we come after them", and old man Howard said no, there had been no trouble there that he knowed of, and we went back up the ravine, but not quite as far as those boys were killed.

Q. Going back for a minute, do you remember sometime before the battle when there was a shot hit Will Bohannon and Riley Bailey? A. Yes, sir, I was right there.

Q. State how that happened.

A. We had all gotten our statements, and Will Bohannon and Riley Bailey were standing there together, looking at their statement, and the gun was standing down on the step, and I was right there looking over their shoulders, and the

gun slipped down, and hit on the step and went off and hit Will Bohannon and went through and broke Riley Bailey's arm.

Q. Was there any fight between Bohannon and Bailey?

A. No, sir.

Q. Do you know whether Pete Stewart and Paul Little came down there one day? A. Yes, sir.

Q. Were they investigating that shooting? A. Yes, sir.

Q. And did you hear them talking about it?

A. Yes, sir, I was right there in the crowd.

Q. What did they say?

A. They were talking like Will Bohannon and Riley Bailey had a fight there.

Q. The day after the battle, did you come in here to Fort Smith? A. Yes, sir.

2263 Q. State what, if anything, occurred when you were walking on the streets with Clarence Shaleen and John Shaleen.

A. We were walking down the street and passed John Monick and another fellow, that I didn't know, and we walked on into the lobby of the Main Hotel, and we were standing there talking, and in a few minutes an officer and John Monick came in, and he said, "This is the fellow right here", and this officer arrested me. I asked him what he arrested me for, and he said for cursing John Monick, and I offered to make bond right there, but they wouldn't let me, and they took me around to jail, and John Shaleen got there and made a bond for me to appear the next Monday morning.

Q. Had you cursed John Monick? A. No, sir.

Q. Do you know who Paul Little was, the man that came down there with Pete Stewart?

A. He was County Prosecuting Attorney, here at the time.

Cross-Examination

By Mr. Covington:

Q. He is the circuit judge here now, is he?

A. I don't know whether he is or not.

Q. When did you first go to Prairie Creek?

A. About the 20th of April.

Q. About the 20th of April? A. Yes, sir.

Q. What particular part did you play in the operation of the mines, what did you do?

A. Anything they wanted me to do.

Q. You say you were handy man around there?

A. Anything they wanted me to do.

Q. Did you carry a gun with you?
2264 A. I did when I was on guard duty.
Q. You carried one when you were not on guard duty, too, did you? A. No, sir, I did not.
Q. Did you have more than one gun with you?
A. No, sir.
Q. Did you have a Winchester and a six-shooter?
A. I had a Winchester, I didn't have no six-shooter.
Q. About how long after you landed in Prairie Creek was it that you arrested Berkell, you and Charley Cheek?
A. I had been there some time, I don't remember how long.
Q. You say that two other fellows were there that night?
A. With Berkell?
Q. Yes.
A. There was more than that, 20 or 25 fellows, there was a big bunch.
Q. How close did you get to them?
A. Oh, we were 200 yards from them.
Q. How far was Berkell away from the crowd?
A. He walked away from the crowd and walked right up to us.
Q. He walked away from the crowd and walked right up to you? A. Yes, sir.
Q. And you were standing out where he could see you?
A. No, sir, we were not.
Q. Were you hid? A. Yes, sir.
Q. He didn't know you were there? A. No, sir.
Q. And you arrested him? A. We took charge of him.
Q. You threw your gun on him? A. Yes, sir.
Q. He was walking along the public road when you did it?
A. No, sir.
Q. Where was he?
A. He was right down this ravine, where I told you, off of the public road.
2265 Q. Now, there is a broad place there in front of that school house? A. Yes, sir.
Q. Extending away out? A. Yes, sir.
Q. Was he not walking in the light, along that little ravine, and he was right there when you took him into custody?
A. No, sir, he was down in this ditch.
Q. And how far off of the public road?
A. As far as to the back of the house.
Q. As far as to the back of the house? A. Yes, sir.
Q. How far did he get to you before you threw your gun on him?
A. About as far as from me to you.

Q. About as far from me to you? A. Yes, sir.
Q. Was he armed? A. No, sir.
Q. What did you tell him?
A. To put his hands up.
Q. He did so? A. Yes, sir.
Q. Did you tell him what you were arresting him for?
A. I just told him that we were watching that pole to keep them from cutting that wire that night and cutting the current off.
Q. He was not up about your pole, was he?
A. Yes, sir, he was right at it when he started down where we were.
Q. How far away?
A. How far away from the pole?
Q. Yes. A. He was right under the pole.
Q. That pole stands over in the corner of the field, don't it, now? Way over in the corner of the field, way to the right?
A. No, it stands right up close, to the road, right at the fence.
Q. The fence is how far off the road?
A. I dont know, just a few steps, just a little piece off the road.
2266 Q. He was not over the fence?
A. No, sir, he was on the outside where the pole was.
Q. He was on the outside and you arrested him outside the fence on the public road? A. No sir.
Q. Now where was the other two men with Berkell, that shot and ran off?
A. All of those 15 or 20 men ran back around the school house when they heard our hollering halt they ran around the school house that way.
Q. The two did? A. All of them did.
Q. I am asking about the two.
A. There was one with Berkell and he run the other way, down in front of the school house.
Q. The man with Berkell? A. Yes, sir.
Q. The man with Berkell was the one of that fired that shot at you? A. Yes, sir.
Q. How many shots did he fire? A. One time.
Q. Did he come pretty close to you?
A. I think so; he hit a tree right by us, and the tree was close to us.
Q. Went right between you and Cheek?
A. Yes, sir.
Q. And hit a tree? A. Yes, sir.

Q. How big a tree was it? A. A small tree.
Q. And he ran off?
A. Yes, sir, this boy ran off.
Q. Berkell did not? A. No sir.
Q. He made no effort to run? A. Yes, sir.
Q. Did you ask him where he was going, this man Berkell? A. Yes, sir.
Q. And what did he tell you?
A. I think he said that he had been to see his girl, or something.
Q. And was going home to his mother?
A. Yes, sir.
2267 Q. And he asked you to turn him loose so that he could proceed on his journey? A. Yes, sir.
Q. And you refused to do it? A. Yes, sir.
Q. And you carried him into camp? A. Yes, sir.
Q. And Charley Cheek guarded him all night?
A. I think Mr. Chitwood and Holt took charge of him.
Q. You put him in a pen, and didn't you put Cheek on the outside with a six-shooter to guard him all night?
A. After he was turned over to Chitwood and Holt, I saw nothing more of him.
Q. Don't you know he was not turned over to them, or either of them? A. Yes, sir.
Q. You testified in this case before? A. Yes, sir.
Q. I will ask you if you were not standing right over there by that railing, in this court room, after court adjourned when you and Cooper Langford gave your testimony, when United States Marshal Mayes came in and announced that you men were liars, and were getting his men in trouble when you committed the outrage yourself?
A. No, sir, I never did hear that.
Q. And did he not say he was going to the 'phone and call the rest of his men in, that you couldn't work such a dodge as that on him?
A. I never heard nothing of that before.
Q. You did not? A. No, sir.
Q. Were you not here when he called Mr. Holt in, and was sitting right there, and heard Holt testify there was not a word of truth in what you said?
A. I must not have been here, I didn't hear it.
Q. What did you do with Berkell the next morning?
2268 A. Mr. Langford and Mr. Holt brought him to Fort Smith in the car.
Q. Were you there when he was begging them to let him go to his mother, that she was old, and had no one with her, and he wanted to go to her, at least let him 'phone to her?

A. No, sir.
Q. You were not there? A. No, sir.
Q. Did you go back up there to see if those 25 fellows were still cutting the wires?
A. No, sir, I went to bed.
Q. You went to bed? A. We did go back.
Q. There was no further danger after you got a man that had no weapons on him into that pen down there?
A. I don't know.
Q. You didn't regard there being any danger, any further danger to the wire.
A. We went back and stayed awhile.
Q. I thought you said you went to bed?
A. We must have stayed an hour, and then came back and I went to bed.
Q. You went back and stayed an hour? A. Yes, sir.
Q. See anybody around there? A. No, sir.
Q. How close to the pole did you get?
A. We went right back up to it again.
Q. And stayed an hour? A. Yes, sir.
Q. And the danger was all over, and you went back and went to bed? A. Yes, sir.
Q. And the next morning Langford got Berkell in the car and brought him here, and set him out on the street?
A. Holt and Langford had him when they started?
Q. Were you there when they started? A. Yes, sir.
Q. Did you hear Berkell ask what he was doing with him?
2269 A. No, sir.
Q. And did you not hear Langford say,—

The Court: He said he didn't hear, and he has repeated it time and time again that he didn't hear, and what is the use of spending time on that. Proceed with something that he can answer intelligently.

Mr. Covington: That is all.

(Witness excused.)

2270 LEVI BROWN, called as a witness on behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:
Q. What is your full name?
A. Levi Brown, and that is all of it.

Q. Where do you live now?
A. I live near Valiant, Oklahoma, down in McCurtain County.
Q. What are you doing? A. I am farming.
Q. What were you doing in the spring of 1914 before you went to work for the Bache-Denman Coal Company?
A. I was working for O. T. Looper, working on a farm, and the man that I was living with—
Q. (Interrupting.) What had you been doing before you went to work for Looper?
A. I had been picking cotton over here at Braden.
Q. You had farmed in Oklahoma before that?
A. I had been raised principally in Oklahoma; I had been raised on a farm.
Q. Do you remember the 6th of April, 1914?
A. I do.
Q. Do you remember the date that crowd came on to the mine property there at No. 4? A. I do.
Q. Were you sick that day?
A. The 6th day I were sick.
Q. When were you taken sick?
A. I was on the 5th, on Sunday.
Q. Did you have a doctor that night? A. Yes, sir.
Q. Do you remember—could you look over and see the tipple from where you were in bed?
2271 A. Yes, sir, it was just a little ways from where I lived, the tipple.
Q. About how far? A. 200 feet.
Q. Where were you living?
A. I were living in one end of what is the dining house. There were two houses near the tipple, and one of them, the one on the west, if I mistake not, was used for a bunk house, a long building covered with lumber and paper, low tops, and had several windows in them, and the one that I were in, had long tables, and we used up near the front, that is near where we cooked, in the cook department of this building, it had a partition in it, you know, and in this, near this partition, we had our beds fixed; just to keep them there, just a short time. We didn't intend to make that our home, just as soon as—
Q. (Interrupting.) Don't go so much into detail.
A. Just as soon as we got working, we were aiming to move out into a house. We just went there to cook, my woman did the cooking for the few men that were there.
Q. You and your wife were to cook?
A. No, two women were to cook, and Joe and me were to work at the mines.

Q. Who were the two women?
A. Mrs. Joe Barnes and my wife.
Q. Do you remember seeing a flag, a banner put on the tipple that day?
A. Yes, sir, I did.
Q. What did that banner say?
A. "Union men's country".
Q. You sould see that from where you were sick?
A. I could see that.

2272 Q. Do you remember of some man coming to the door of the cook shack along in the afternoon, and what they wanted, and what they said?

A. Why, after this bunch came down there, and broke over, and taken possession of the mines, and put this banner up, then they came on over to the place where I were at there sick in bed, and wanted to break in there, said they wanted to get me out, they said I was not sick, and I was just putting on, and they said they wanted to whip me, and my wife, she taken a knife, and went to the door, with a butcher knife, her and Mrs. Barnes, and she told me before she left they won't come in unless they overpower me, and I said, "don't let them in, because I don't feel like standing their bluffs".

Q. Do you remember some men coming into the room where you and your wife were sleeping?

A. That night? I didn't have any time piece, and I don't know what time it were, I couldnt say, but along after dark, well, it might have been 8:00 o'clock, there were some people, I heard some people about the house, and I heard them whispering, kind of talking low, and I says to my wife, "You reckon they aim to do us any harm"? You know those men, there were two bunches, one bunch come back after this riot, and taken the mine, and they asked me if I wanted to be taken away, if they—if I wanted them to take me away, and I told them I didn't, that I would stay there, that I didn't feel like being taken away, and those men promised me earnestly that there would nobody harm me at all, and that night, when those men were about the place, I raised up and looked out, and a man was [stopped] over, and it looked like he was trying to shove something in under the porch, and I thought, I wondered if he was going to do something to this building,

2273 I didn't know but what he aimed to put a bomb under there or something.

Mr. Warrum: The defendants separately object to what he thought.

The Court: Yes. Sustained.

Q. Don't tell what you thought.

A. This man was there, and I asked him if he intended to do me any harm, and he said, "No, are you the sick man", and I said "I am" and he said, the same one said—I can't say whether it is him or not, said "Are there any company guns here" and I said "There is not, not in this building, there are no company guns here" and they said, "We cannot take his word for it" and they said they would have to come in and see. One of the boys, Charley Cheek, if I mistake not, came through the building that day, when this riot was coming on, and asked me would I take a little 38 he had in his pocket to protect myself with, and I said "Yes, Charley, you can leave it here", and he just handed it to me, and I put it under the covers. I held that with my right hand while my wife was at the door, and it only had four shells in it, and this gun was in the bed with me when those men came up that night, and they said, "We will have to come in and see," and I knew if they found me with that gun that they would say I had lied, and from the maneuvers of everything it looked like I was in danger anyway, and would probably lose my life before the night was ended, and I decided to tell the men that I had a gun.

Mr. Warrum: If the Court please, this witness is stating conclusions. I was hoping that we could get the facts, so that I would not have to object. I believe the defendants will have to object to further statements of conclusions.

2274 The Court: Objection sustained.

To which ruling of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Q. Just try to tell what he said to you and what he did.

A. I wanted to get to this, just this proposition I wanted to get to. Those men, after I told them about this gun proposition, and told them I had a gun there,—now listen, they said, "We must come in" and one of them came to the front door and throwed a gun on me, I could see it through the window, and cursed me, and abused me, and told me to put my hands up, and I said I hadn't done nothing, I have always been a law-abiding citizen, and I didn't want to put my hands up, and men, I will tell you the truth, I didn't want to put my hands up, I had never done it in my life, and I didn't want to put my hands up, but he said, "I will blow your light out" and was cursing me, and my wife said, "Levi, put them up," and so I put 'em up, and he made me hold my hands up until this man broke through the door, and came in and

searched, and searched for the gun in my bed. It had worked down, and he had to search for it, and cursed me and abused me to everything he could lay his tongue to; and another one came in the house, and went through a long string of abusing us.

2275 Q. Now, Mr. Brown, that night did you see some fire on the tipple?

A. After they left the house I seen the fire on the tipple.

Q. How long did that burn?

A. It didn't burn very long. About the time they left the house it thundered, and it was not but a short time after that fire kindled up it was raining considerable, and then it rained right hard, and after the rain I didn't see no more fire. And the next morning the tipple was standing there and later on I seen the place where it had burned.

Q. Did you, just previous to seeing that fire, see or hear anyone on the steps of the tipple?

A. Yes, I heard someone going up the steps.

Q. Now, coming down to the date of the battle of July 17th, Mr. Brown, state what occurred on that day. Were you still at Mine No. 4 then?

A. Yes, I were still at Mine No. 4.

Q. State what you saw and heard.

A. Well, about 8:30 I left my home and went to the office. The mine blowed the working whistle that morning as usual, and of course I had to see about what they were going to do, and while I was in the office I heard guns firing, and the boys rushed in, some of them, and got some guns that were in the office, and I reckon I was the last man at the building. And these boys got guns, and just fell out, you know, and they just shot—I heard the bullets from the guns on the other side. They came through the building while I was in there. I taken it to be a steel ball, because they could not have penetrated the building if they had not been—through those walls.

And I went out of the building and ran over to the
2276 loaded cars of coal, and our boys was behind those loaded cars of coal, shooting over the top, and every way they could.

Q. Did you go up there by No. 3 camp that day, that morning?

A. Yes, after I got home, why there was a man came down there, I reckon it must have been about 9:00 o'clock, maybe later than that. There was a man came down there, Sheley Owens, was his name.

Q. Was he one of the employees of the mine?

A. Yes, he and his wife. They said they lost their children and had been captured by the Union miners and they

told him if there was any man or men over there that had women and children—

Mr. Warrum (interrupting): This conversation was not between him and any of the defendants.

The Court: I did not quite catch that.

A. (Continuing.) Sheley Owens, one of the employees, had been captured, and they sent him back.

Q. Don't tell what Sheley Ownes told you.

A. That is how come me to leave that place, was because this man told me that they had a sheet on a pole, and they told us if we carried that sheet the men would not shoot us, and I took my baby and wife and left the house and everything I had there and never seen it no more.

Q. Did you see anyone you know, on what you called the other side?

A. After I crossed the little ridge I met some men I knew. They captured us.

Q. Who captured you?

A. One in the bunch that captured us was Frank DeSanto, another one was,—I can't think of his name. I identified him in the court once.

Q. You identified him at the contempt proceedings?

2277 A. Yes, sir.

Q. Was that Lloyd Claburns?

A. Yes. it was Lloyd Claburns. I identified him here in the court once if I mistake not.

Q. What did they do?

A. When they captured me?

Q. Yes, what did they do? What do you mean by saying they "captured you"?

A. When we came to the top of this hill they threw their guns on us and said, "Come down" and we walked down to them, and when I walked up they commenced abusing us. I could not say the language that they used at all, but they abused us and asked us what was we over there for, what—why didn't we leave that place? And one of them punched me with a pump-gun, and he was hurting me so bad punching me in the chest—

Q. (Interrupting.) Who was?

A. I don't know his name, and he was hurting me, and I said to him, "I would rather be killed than butchered in this way" and he said, "I can do it", and jumped back to shoot me. I heard the hammer click back and was fixing to kill me I guess,—I taken him to be doing this and this Lloyd Claburns said, "Don't do that for God's sake, don't kill

him". And when he done that he said, "You people spoke to me", and this Tony—what is his name? One of the company employees that went away with us from my house, he to us to leave. "Go to Hartford," and he said "and stay in the road. If you leave the road you will get killed." So we started out down towards No. 3 and about the time we got even with No. 3 they commenced shooting at us; and the bullets was coming so thick and fast that it caused us to take to the timber for refuge.

Q. Did you have your baby with you then?

2278 A. Yes, I had my wife and baby— had my baby in my arms and my wife was coming along after me. I remember one bullet cut off a limb right over my head and it dropped down and I had to knock it out of my way, and another jabbed into a tree at my side, and I saw it turn the bark of the tree, and I heard it.

Q. You had one child at that time?

A. Yes, one child then.

Q. When was the next child born, Mr. Brown?

A. It was born, I think, September 23rd.

Q. Of that same year? A. Yes, sir.

Q. Did you at any time during that morning see John Manick?

A. Yes, I seen John Manick.

Q. What did you see him doing?

A. When they told us to go on down this road, before we got down to No. 3 slope why there was houses burning on each side, and after we got down to No. 3 slope a man crossed over the road and I said to my wife then "Wife, isn't that John Manick" and she said "I don't know," and I looked at him good. He had some burning boards in his hands and was going toward a building that was not afire then. We were going down the street in No. 3 camp then when I seen him cross over.

Q. Was your wife with you when this man threatened to shoot you? A. Yes, sir.

Q. You and your wife and baby were all there? A. Yes.

Q. I neglected to ask you about a trouble that I think you were in at the Midland station on or about May 18th. Do you remember when you and Charley Cheek and Will Bohannan went up there to get some supplies?

A. Yes.

2279 Q. Tell the court and jury what happened on that date.

A. I were driving the company team hauling provisions from Midland out to the mines, and they had made an attempt to hurt us once before when in Midland.

Mr. Warrum: If the Court please, the defendants object to that statement and move that it be stricken out. The facts ought to be related and not conclusions of the witness.

Mr. Hull: It may be stricken out.

The Court: That is stricken out.

Q. State what happened that day.
A. We went for a stove, and while we were loading this stove a bunch of men and boys crowded up in the head of the street near the depot, in front of a store. I forget the man's name, but it was near the depot.
Q. Was it Buck Tharel's store?
A. Yes, and we loaded the stove and put on a couple of boxes of bread and started out. We never molested or bothered anybody. We put on the load and started out of town and about the time we got started they began to throw rocks at us.
Q. Did you know anybody in that crowd that was throwing rocks?
A. I knowed some of the boys but, to call their names now I can't.
Q. What happened then?
A. When they threw the rocks at us they came running down to us throwing rocks and Will Bohannon and Charley Cheek said,—I didn't realize they were throwing at me until they said they were. I looked up and rocks were coming thick. And Cheek said, "We will have to stop", and they just—we stopped in the road and the boxes were about to fall off and had to be tied when they stopped. When we stopped
2280 one got off on one side of the wagon and the other on the other side. And they taken the guns out of the wagon. They were down in the front of the wagon covered up by sacks. They lifted up the sacks and got out, one on one side and the other on the other side. The mob, I suppose, seen they had guns and they turned and went back. And Cheek said "Tie your boxes", and I started to do that and about the time we got the boxes tied on, and I had got back and the boys got back on the wagon, here come another bunch of men and boys, and in front of us was men with pistols and they were waiving them and hollering and telling us to "halt and consider ourselves under arrest." Well, we obeyed them. They came down and arrested Charley Cheek, Will Bohannon and myself. They taken us back up to the office and said they were going to put us in jail. I had never been in jail before and I refused. I told them also to search me to see if I didn't have no weapon; I didn't have even a pocket knife.

So they set these boys trials at 9:00 o'clock that night and I also said when we were up in the mayor's office, that they would try their shoes that night and make us leave town; they would kick us out of town.

Q. Where you fined?

A. They had the trial the next day at 9:00 o'clock and I were fined, I think it was $100.00, and the other boys were fined $100.00 apiece for disturbing the peace and brandishing guns. Each one of us were fined just the same.

Q. Did you at any time brandish a gun or handle a gun that day? A. I did not.

Mr. Hull: That is all; you may cross-examine.

2281 Cross-Examination

By Mr. Warrum:

Q. Have you stated all that you recollect concerning the affair on April 6th and July 17th?

A. O, no, there was considerable I have not stated.

Q. You recollect a great deal more than you have stated?

A. Oh, yes, I recollect a good many things that happened out there, but I have not stated them all.

Q. Have you gone over this matter with Mr. Curtis, the detective for the plaintiff company pretty carefully?

A. I have not with Mr. Curtis, no, sir.

Q. Do you know Mr. Curtis?

A. I know Mr. Curtis, yes, sir.

Q. You never made any statement to him at all?

A. I have never made any statement to Mr. Curtis. He came to see me last summer, but going over the facts of this case, he didn't ask me, but just a very few things. One thing he asked me did I remember things that happened at No. 4 and I told him I did.

Mr. Warrum: That is all.

Redirect Examination

By Mr. Hull:

Q. You have gone over this story with me? A. Yes.

Q. You met me yesterday afternoon? A. Yes.

Q. And that was the first time you ever knew me?

A. Yes, the first time I ever met you.

Q. You testified in the contempt case here?

A. I testified in the injunction and the contempt.

Q. In this court room? A. Yes.

Q. And did you tell the same story then that you have
2282 just told now?

A. Yes, sir, I told it the same as near as possible.

Mr. Hull: That is all.

(At this point an adjournment was taken for the noon recess until 2:00 o' clock P. M.)

2283 Friday, Nov. 2nd, 1917, 2:00 o'clock, p. m.

Pursuant to adjournment, court reconvened, the parties appearing as before and the following proceedings were had:

Mr. Hull: If the court please, I have a short statement to make. In one of my questions yesterday I assumed that Earnest Nein referred to by the witness Womack pleaded guilty in this court. I was in good faith when I said that, but I have looked up the record and find that that is not true, and I don't want to state anything that is not true.

The Court: The statement of counsel is in the record, I don't remember the incident.

Mr. Hull: Mr. Grant stated I would find that is not true, and I have found it.

The Court: Oh yes, I remember that. Let the record show it.

J. L. Briggs, called as a witness on behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. What is your full name, Mr. Briggs?
A. J. L. Briggs.
Q. Where do you live? A. Midland.
Q. Where you living,—where were you living in the spring of 1914 A. At Berum.
Q. Were you working for Will White? A. Yes, sir.
Q. In a mine at Montreal? A. Yes, sir.
Q. I show you a paper marked plaintiffs' Exhibit 44, and will ask you if you have ever seen that paper before?
A. I seen one like that, I can't say that is it, but I
2284 seen one like that.
Q. Will you look at the date on it?
A. I can't see that writing.
Q. Do you remember when it was that you saw one like that? A. In 1914.
Q. Was it in April?
A. Yes, sir, I think it was, to the best of my knowledge.

Q. What did you do with that paper, if that is the paper that you had before? A. I gave it to Will White.
Q. You gave it to Will White? A. Yes, sir.
Q. Where did you get it?
A. My wife gave it to me; a party handed it to her and she gave it to me.
Q. Do you remember when that was?
A. No, sir, I never took no record of it.
Q. Was it on or about the date given in the letter?
A. Yes, sir, about that date.
Q. And did you hand it to Mr. White at the same time that you received it?
A. The next day I did; I think it was the next day.
Q. Was Mr. White's mine running union or non-union at that time?
A. Mr. White had signed his mine up that he would not recognize the local that had jurisdiction over the mine.
Q. And there was an attempt being made by the local to get him to recognize them?
A. I couldn't say who done that, I didn't see the party.
Q. Are you a union man? A. Yes, sir.
Q. Do you know of any attempt being made there to get him to recognize the local?
A. I think that was what it was done for.

Mr. Warrum: The defendants severally object to the
2285 evidence sought to be introduced by this question, in characterizing this particular exhibit, and this question is not designed to elicit that sort of an answer, and we object, if the court please, to any question designed to elicit from the witness an interpretation or characterization of the exhibit which is not yet definite.

The Court: The court don't understand this question that way.

Mr. Hull: I will proceed without reference to this exhibit.

Q. Without reference to this exhibit, will you state whether or not an attempt was being made on or about that time to get Mr. White to recognize that local?

Mr. Warrum: The defendants severally object to the evidence sought to be introduced by this question, because it involves a controversy, a foreign controversy, in which the plaintiffs are interested, and throws no light on the contention of the plaintiffs in this case, and has no bearing on this case.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Q. You may answer? A. Yes, sir, he was asked to.

Mr. Hull: That is all.

Mr. Covington: No cross-examination.

Witness excused.

2286 EWELL DOUGHIT, called as a witness on behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your name, Mr. Doughit? A. Ewell Doughit.
Q. Where do you live? A. Hartman, Arkansas.
Q. How long have you lived there? A. All my life.
Q. How old are you? A. 22 years old.
Q. Did you go to work for the Bache-Denman Company in the spring of 1914? A. Yes, sir.
Q. What were you to do down there?
A. I first went in there to work, and commenced firing.
Q. Went to firing?
A. Yes, sir, and fired eight or ten days, I guess, something like that, and after we got the mine up in shape, I went under the ground.
Q. Do you remember being on a train about June 15th, 1914, and what happened on that train? A. Yes, sir.
Q. Will you state what occurred at that time?
A. Well, the first trip?
Q. Take your hand down and face a little more toward the jury.
A. The first trip I made in there, I don't know whether it was the 15th or not, but it was the first trip I ever made down there.
Q. Tell what happened?
A. We went down,—there was a bunch of men got on, I believe at Midland, and tried to keep us from getting off, and some of them threatened to break base ball bats over our heads.
Q. Who was that, if you know?
A. Why, let's see; Sandy Robinson was one of them, and Clint Burris was the other one.

2287 Q. Did anyone strike at you?
A. Yes, sir, there was someone struck at me, as I went out to the door.
Q. Do you know who it was?

A. Well, I believe it was Robinson.

Q. Now, on the 17th of July, Mr. Doughit, the day of the battle, can you state what you saw and heard? You were at the mine at that time?

A. Yes, sir. Well, that morning, sometime along in the morning, I don't know just what time, before daylight some time, though, there were several shots fired, and it kinda quieted down then; and so, somewhere about seven, or between seven and eight, after that train ran—

Q. After what train ran?

A. This train that runs from Hartford up here.

Q. The Midland Valley train?

A. Yes, sir, Why, the main fight commenced, and they began to shoot.

Q. What time did you leave the mine?

A. Well, I imagine about nine, between nine and ten.

Q. With whom did you leave? A. With whom?

Q. Yes.

A. I left with my brother and Sam Thomas and Baskins,—

Q. (interrupting. What Baskins was that?

A. Sam Baskins.

Q. And who else? A. There was Sylsberry,

Q. What is his first name?

A. Well, sir, Irvin, I believe was his name.

Q. Do you know whether it was Irvin or Earl?

A. I can't say whether it was Earl or Irvin, anyway it was Sylsberry.

Q. Which way did you go when you started out from the mine?

A. Well, I don't know the direction down there, but
2288 it was toward the creek, and I don't know the direction.

Q. What happened when you got out there?

A. Well, we started across a cotton patch, and got up pretty close to some woods, and some men walked out, run out, and we kinda stopped, and they hollered at us to come on, and went out there and they captured us.

Q. Did what?

A. Captured us; some of them had some guns, and Winchesters, and they took them from them, and took us over to the school house.

Q. Did you testify before the grand jury at Greenwood soon after that? A. Yes, sir.

Q. Did you recognize at Greenwood someone in the crowd that captured you? A. Yes, sir.

Q. What was his name? A. Charley Blackburn.

Q. What did he do when he took you over to the school house?

A. Why, he took us over there and turned us over to the officer, he claimed; I don't know who the man was, he claimed he was an officer. So he turned us to the officer, and they took us; we sat around there a while, around the school house for a while, and after a while they took us down to a little house, a little log hut.

Q. Where was that with reference to the school house?

A. Right down the bank there.

Q. Do you know the name of either of those officers?

A. Jim Slankard was one of them.

Q. Did you recognize at Greenwood the other one, to identify him?

A. Well, yes, sir, there was one of them named Trout.

Q. You identified him at Greenwood? A. Yes, sir.

Q. What was his first name?

A. I believe they called him B.

2289 Q. Where did they take you?

A. To a little old log hut, and we stayed in there a right smart while, and so Slankard came up and said for us to come out, and he would take us over to Hartford. I don't know why he was going to take us to Hartford, anyway he said for us to come and go with him, and he would take us to Hartford, and as we started out,—

Q. (interrupting). Started out where?

A. Out of the house.

Q. Out of the log cabin?

A. Yes, sir, there was a man standing off over there, and shot Sylsberry.

Q. Did you see him shoot him? A. Yes, sir.

Q. What did he do then?

A. Well, it has been so long, I have just forgot whether he shot Sylsberry twice before he shot Baskins or not, but anyway he shot Sylsberry and then shot Baskins. He shot Sylsberry three times, and it has been so long I can't say whether he shot Sylsberry twice and then shot Baskins, and then come and shot Baskins or not.

Q. Was Baskins a one legged boy? A. One armed.

Q. One armed? A. Yes, sir.

Q. Are you some relation to him?

A. He was my brother-in-law.

Q. What did that man do that shooting with?

A. It was a pistol.

Q. Do you know who that man was? A. No, sir.

Q. Have you ever seen him since? A. No, sir.

Q. Did Slankard say anything?

A. There was some old man there, I don't know who he was, hollered and asked Slankard, after this shooting was done, asked him what he wanted to do with these other men, and he said, turn them loose or let them go home or anything they want to do with us, and this old man told us,—
2290 this man that done the killing was over there looking at Baskins, and this old man said, while he was over there, that we had better get up and go, and we went out through the woods.

Q. Did Baskins move after he was shot?

A. I didn't see him move; he just fell, and I didn't see him move a time.

Q. At Greenwood, before the jury, did you recognize somebody else in the crowd besides Slankard?

A. There was Valentine Borillo; he was a big Mexican.

Q. What is his name?

A. Valentine Borillo, or something like that.

Q. You recognized him as one of the men that was present while the shooting was going on?

A. He was there sitting up on the bank of the branch when the shooting was done.

Q. How many men was there present when that shooting was going on? A. I can't say, there was a bunch of them.

Q. About how many?

A. Maybe a hundred or two. There was an awful bunch of them there.

Q. Did Slankard make any attempt to arrest this man?

A. That done the shooting?

Q. Yes. A. No, not while I was there.

Cross-Examination

By Mr. Covington:

Q. You testified in these cases over at Greenwood?

A. Yes, sir.

Q. You were called upon there to identify Mr. Trout, were you not? A. Well, I didn't identify him there.

Q. And you picked out a man that lived in Greenwood, a middle aged about 40 years old, and said that was the man?

A. I said I would be for sure whether that was Trout or not. I picked him out down there before the grand
2291 jury. They had them all lined up out there in the yard.

Q. You picked out who?

A. Trout, and there were three men that were identified out there in the yard.

Q. And that was in the circuit court trial, you picked out a man that lived in Greenwood there all his life, a man named George, did you?

A. I didn't say for sure that was Trout.
Q. You did not? A. No.
Q. You were asked to pick him out and identify him?
A. Yes, sir.
Q. And you said, "There he sits right over there is the man that done the shooting"?
A. I said I couldn't be sure whether that was him or not.
Q. Where did the man that done that shooting come from? A. Come from?
Q. Yes. A. I don't know.
Q. He was not standing there, was he?
A. Yes, sir, he was standing up there as we came out the door.
Q. Did he come down off of the side of the hill there as you came up? A. If he did, I didn't see him.
Q. And done that shooting right quick and whipped around the house? A. If he did, I didn't see him.
Q. Didn't you testify to that in the other trial?
A. No, sir.
Q. He came so quick you couldn't describe what kind of a looking fellow he was?
A. I didn't say that he whipped around the house.

Redirect Examination

By Mr. Hull:
Q. You testified in the contempt proceedings, did you?
A. Yes, sir.
2292 Q. You told the same story there that you have told now? A. Yes, sir.

Witness excused.

2293 MIKE DOUGHIT called as a witness in behalf of the plaintiffs, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hull:
Q. What is your full name? A. Mike Doughit.
Q. Where do you live? A. I live at Hartman.
Q. How long have you lived there? A. All my life.
Q. Were you working for the Bache-Denman Coal Company in the spring of 1914? A. Yes, sir.
Q. What did you do down there?
A. I drove a team there a while.
Q. Did some guarding?
A. I guarded about three days and worked a little under ground.

Q. Do you remember that time that you went down there on the train, about June 15th, and had some trouble?

A. Yes, sir.

Q. Will you state what occurred on that train?

A. Well, when we got on the train here, there were several got on right here in Ft. Smith, and down at Greenwood there was a big crowd there met the train, and come on and searched Tom Allison, and they told us, they said they would get us over there at Midland, and when we got to Midland they piled on there with ball bats.

Q. Did you know any of them that had ball bats?

A. Yes, sir, John Menick, Clint Burris and Sandy Robinson, I believe that is all I knowed, and it was pretty rough from there on down to the mine.

Q. Did you hear anything said?

A. Yes, sir, they were cursing and abusing there right smart.

2294 Q. What was said, if anything,—did you hear anything said to Clarence Shaleen?

A. Yes, sir, Clint Burris walked up to him and called him a son-of-a-bitch; I don't know what all he did say to him; he said he wanted to get a hold of him, and he had a good mind to take a rap at him with a ball bat. He said they was not going to let anybody get off down there at the mine. And when they started to get off, this Sandy Robinson struck my brother, when they started off, and that is all there was down there.

Q. Coming down to July 17th, when did you leave the mine? A. Along about 9:00 or 9:30.

Q. With whom did you go?

A. Me and my brother and brother-in-law, John Baskins, and Sam Thomas, and two or three more boys there from Tennessee.

Q. Earl Sylesberry with you? A. Yes, sir, Sylesberry.

Q. What happened to you after you left the mine?

A. Well, we went,—started out through the timber there, and stopped out there a while, and thought that we would wait a while, and then maybe it would get quiet, but it seemed like they were getting rougher all the time, and we decided to get away from there, and get home; and we started across the field and run into some brier patches up there. There was a bunch of men run out in our faces, and throwed their guns on us, and they captured us right there and taken us over to this school house. There was a big crowd there.

Q. Did you testify before the grand jury at Greenwood?

A. Yes, sir.

Q. Did you identify someone in the crowd that captured you? A. Yes, sir.

Q. Who was it?

A. Charley Blackburn. That is all that I identified
2295 in the crowd that captured us.

Q. What did that crowd with Clint Burris do with you, in the crowd at the school house?

A. They taken us over there and turned us over to those officers.

Q. Do you know who those officers were?

A. I do not know but one there, that was Slankard, and I found out this fellow Trout over at Greenwood; and that is the way I come to know him at Greenwood, they told me that was Trout.

Q. What did those two officers do with you?

A. What did they do with us?

Q. Were you with the crowd?

A. They turned us over to another bunch of men, and taken us up and put us in a log house for a while.

Q. How far was that from the school house?

A. Three or four hundred yards, I guess.

Q. Up the hill in the ravine behind the school house?

A. Yes, sir.

Q. What happened to you after you were put in the log cabin?

A. Well, they left a bunch of men there with us to guard us until the fight was over down at the mine, and after that was over they all come back.

Q. Who came back, if you knew any of them?

A. A big crowd of men, and Slankard.

Q. Was Slankard in the crowd? A. Yes, sir.

Q. What happened then?

A. Slankard called us out of the house and said he was going to take us into Hartford, and when we started out, this man done the shooting, I don't know who he was. He just commenced shooting Sylesberry. He shot him twice, and

John Baskins was with him, and he started to run and
2296 he shot him, he just shot him one time.

Q. Shot [whom] one time?

A. John Baskins. He fell right on his face and never moved, or made no racket, and Sylesberry was lying there hollering and taking on, and he turned around and shot him again. He shot him three times.

Q. Were you some relation to John Baskins?

A. Yes, sir, he married my sister.

Q. Where did he work before that?

A. He was a farmer.

Q. Had Earl Sylsberry worked union before?
A. I never did know Sylsberry until I went there. I don't know where he worked.
Q. After Sylsberry had been shot three times, did he move after that?
A. No, he just kind of dropped down against the house, and was lying there groaning, and after he shot him the third time he kind of went away like a hog dying; he got quiet, that is all there was to it. So they told us to go, Slankard did, and he told us to go right up the mountain, and we went up it, plumb to the top; and fooled around there until about four o'clock, and came back through to Huntington, and run into another bunch, and had another little brace, and they run us until it got dark, and shot at us several times, and it got so dark that we couldn't see how to go. We all got in a thicket and laid down until the next morning, and then we came out again and walked about 80 miles and got home, and that is all there is to it.

Mr. Drinker: That is all.

By the Court:
Q. What were you doing at this mine?
A. I drove a team when I first went there to haul water, and I guarded about three days, and quit that, and went
2297 to work under ground, and worked two days under ground.

Cross-Examination

By Mr. Covington:
Q. You testified in the trial of murder of Slankard and Trout, did you, over at Greenwood? A. Yes, sir.
Q. And Slankard and Trout proved an alibi at that trial, did they not? A. Proved an alibi?
Q. Yes, sir, said there was someone else that did the shooting? A. Oh, yes.

Witness excused.

2298 FRED FRANCIS, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:
Q. State your name. A. Fred Francis.
Q. How old are you?
A. Well, sir, if I have my age right, I was 26 years old the 6th of last July.
Q. Do you remember the day of the big battle at No. 4?

A. Yes, sir.
Q. The night before that were you there? A. Yes, sir.
Q. State what you saw there that night when you were there what did you see?
A. Well, I didn't see nothing there but a bunch of men out there and a few guns.
Q. How many men did you see at Frogtown?
A. Oh, it looked to me like it was several hundred, but I didn't count them.
Q. Did you testify in the contempt case here? A. Sir?
Q. Did you testify in the contempt case here? In this court room? A. Yes, sir.
Q. Did you say there at that time, that there was a thousand men there?
A. Well there must have been, there was a good many of them.
Q. What did you hear the men saying they were going to do?
A. They were talking about going over there and getting them men out of that place.
Q. What place was that? A. No. 4.
Q. On the 17th—the next day, what did you hear and see?
A. I heard right smart shooting, and I went over there
2299 and I seen a few men scattered around there and there was a couple or two or three men going up to a cabin where the men was, and I went up with them.
Q. What did you see at the log cabin?
A. I seen the men they had captured.
Q. What happened?
A. I just walked up there and peeped into the cabin and turned around and started to walk away and a man said "come out boy, and go with me" and I stopped, and they just walked out from around the corner of the house and someone went to shooting and I stepped back and looked back, and two men were laying stretched out dead.

Mr. Hull: That is all.

Cross-Examination

By Mr. Covington:
Q. Were you working at No. 4, Mr. Francis?
A. No, sir.
Q. What were you doing? A. Sir?
Q. What were you doing over in that country?
A. I was over there just prowling around, like other kids would. I didn't have no better sense.
Q. Do you mean prowling around No. 4?
A. I was just over there where the bunch was.

Q. What bunch? A. The bunch of men.
Q. Where did you live then?
A. I lived at Huntington. I didn't live just exactly in Huntington, but two miles west of Huntington at No. 3 camp.
Q. You lived at No. 3 camp? A. Yes, sir.
Q. Where is No. 3 camp located with reference to No. 4 tipple, where this trouble was alleged to have occurred?
A. It is kind of northeast a little bit.
2300 Q. How far?
A. Well, I don't know—about five or six miles I guess.
Q. When did you leave home that day, what time?
A. I never noticed what time it was.
Q. Well, about what time was it?
A. It was along in the morning about—well, it was after 8:00 o'clock I guess.
Q. Where did you go?
A. Well, I went over that way—over to No. 4 camp.
Q. Did you stop on the road?
A. Well, yes, I stopped along.
Q. Did you go down to No. 4?
A. No, sir, I never went down to the mines at all.
Q. You did go into No. 3? A. No, No. 4 camp.
Q. You went into No. 4 camp? A. Yes.
Q. Then where did you go from there?
A. I went from there over to that log cabin and from there I went back home.
Q. I am talking about the day of the night you say you saw the crowd gathered at Frogtown? What time did you leave home that day?
A. I am talking about the day the fight came off. You are talking about the night before the fight?
Q. Yes, where were you the day before the fight the next morning? Were you at home the day before? A. Yes, sir.
Q. Did you stay home all day?
A. I don't know whether I was home all day or not. I was down at No. 6 camp when a fellow came along and I went over there with him.
Q. Who was the fellow? A. Paul Allman.
Q. Did he live in that community?
2301 A. Yes, he lived right there [there] in No. 3 camp.
Q. Where did you and Allman go to?
A. We went to No. 4 camp,—not No. 4 camp, but Frogtown.
Q. Who did you see in Frogtown that day?
A. I didn't see no one I knowed. Just them men I seen over there.
Q. Did you stop there?

A. Yes, sir, we stopped there about an hour or so.
Q. What were you doing while you were there?
A. I wasn't doing nothing. I was setting at the side of the road talking to the fellow I went over there with.
Q. You just went to the side of the road and had a conversation between yourselves, did you? A. Yes, sir.
Q. And you remained there about an hour? A. Yes.
Q. You did not get out of the buggy?
A. We were not in a buggy.
Q. How did you go? A. Afoot.
Q. And you were down at the side of the road? A. Yes.
Q. Where did you go after you left that particular place?
A. I went right back home.
Q. You went right back home? A. Yes, sir.
Q. What did you go over to Frogtown for?
A. This fellow came along and wanted me to go over there with him, and I walked over there with him. I met him in No. 6 Central Camp.
Q. What business had he?
A. That is something I don't know, I can't tell you nothing about his business, what his business was that he had over there.
Q. You don't know?
A. No, I don't know nothing at all about him.
2302 Q. Were you then preparing for the fight the next day? A. Who?
Q. You. A. No, I never prepared for nothing.
Q. You didn't? A. No, sir.
Q. When you left there where did you go?
A. Left Frogtown?
Q. When you left Frogtown where did you go?
A. I went home. I told you awhile ago I went to Frogtown.
Q. What time in the afternoon was it you left there?
A. After dark, I don't know what time it was. It was after dark when we got over there.
Q. It was after dark when you got there? A. Yes, sir.
Q. Where was this gathering taking place?
A. There in Frogtown.
Q. Well now, where is Frogtown?
A. Down at the lower end where the road turns to go to Hartford.
Q. Down on the turn there? A. Yes, sir.
Q. Did you know anyone in Frogtown?
A. No, sir, I don't know no one there.
Q. You met no one you knew there?

A. No, sir. I didn't know a soul over there except the boy I went over there with.
Q. Did he meet anyone with whom he was acquainted?
A. I don't know whether he did or not.
Q. Did he call anyone by their names?
A. If he did I didn't hear him.
Q. Did you go in any houses there? A. No, sir.
Q. You just walked over there and sat down? A. Yes.
Q. And sat and talked an hour between yourselves and went away? A. Yes, sir.
2303 Q. What time did you return home?
A. It was about 9:00 o'clock I guess or later maybe.
Q. How far is it from Frogtown to your home?
A. Well, about five or six miles.
Q. Five or six miles? A. Yes, sir.
Q. About what time was it when you left Frogtown to go to your home? A. Well, I never looked to see.
Q. Then you remained at home during that night?
A. Yes, sir.
Q. What time did you leave home the next day?
A. Well, it was about 8:00 o'clock I guess, or a little after.
Q. Where did you go?
A. I went back over there to No. 4 camp.
Q. How close is your home to No. 4?
A. Well, about four and one-half miles, I guess.
Q. What did you go over there for?
A. I just went over there because I didn't have any place else to go.
Q. You had your gun with you, didn't you?
A. No, I didn't have no gun with me.
Q. Who went with you?
A. There didn't no one go with me there.
Q. Where did you meet some one?
A. I didn't meet no one until I got over to No. 4 camp.
Q. Who did you meet there?
A. I just met a bunch of men.
Q. Did you know any of them? A. No, sir.
Q. You didn't know any of them? A. No, sir.
Q. Were you raised in that country?
A. No, sir, I ain't been raised there.
Q. How long have you lived there?
A. I lived in Huntington about five years I guess.
2304 Q. Five years? A. Yes, sir.
Q. Have you been in Huntington all the time?
A. No, sir.
Q. Have you been away from there?
A. I have been in and out.

Q. How much time have you been out?
A. Just about as much time as I have been there—about half of the time.
Q. What states did you visit?
A. Well, Illinois and Missouri and Kansas, and around up in there.
Q. What is your occupation?
A. Well, coal miner mostly.
Q. What local do you belong to?
A. I have the number in my pocket right here (witness takes card out of his pocket and looks at same). 613.
Q. Who is secretary of your local? A. Walter Arwood.
Q. Do you belong to it up to this particular time?
A. Yes, sir.
Q. What mine were you working at? A. Now?
Q. No, at that time?
A. Wasn't working then. I was crippled up at the time that battle came off. I got crippled at No. 3 Central at Huntington.
Q. And you did not have any gun that day at all?
A. No, sir.
Q. Did you do any shooting after you got there with anybody else's gun? A. No, sir, I never done no shooting.
Q. Did you do any shooting at that little house where the men were murdered? A. No, sir.
Q. You didn't do any shooting?
A. No, sir, didn't have anything to shoot with.

Mr. Covington: That is all.

Redirect Evamination

By Mr. Hull:

Q. Bob Allen was a union miner too? A. Yes.
2305 Q. You testified in the contempt proceedings that he told you there was going to be a meeting there.
A. Yes, sir, he came by and told me "Let's go over to the meeting." And I said, "What kind of a meeting is it?" And he said "I don't know, we will find out when we get over there." And I didn't go in to find out what it was. I just heard him say what I told while ago.
Q. Do you know the names of either of the men that was killed that day? A. No.
Q. Did you testify in the contempt proceedings that one of their names was Sylsberry?
A. I heard the name of one of them was Sylsberry, but I don't know the man.

(Witness excussed.)

2306 DAVID STANLEY, called as a witness on behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct [Exmmination]

By Mr. Hull:

Q. State your full name. A. David Stanley.

Q. Will you make an effort, Mr. Stanley, to make yourself heard? A. I will if I can.

Q. I know you have not a very strong voice. The last juror over in the corner there has to hear everything you say and the Court behind you has to hear you. Were you working down near Mine No. 4 on July 17th, 1914? A. No, sir.

Q. Well, where were you working?

A. I was putting props and hauling to Mine No. 6.

Q. How far was that from Mine No. 4?

A. That was about—that was away over—I had to haul nearly over to Huntington.

A Juror: We can't understand you.

A. (Continuing.) Pretty near over to Huntington.

Q. Were you living at No. 4?

A. I was living in Mine No. 4.

Q. In what they call No. 4 camp? A. Yes.

Q. Do you remember the morning of the big battle down there? A. Yes.

Q. Did someone come to you that morning and tell you to come away with your family? A. Yes.

Q. Who was that? A. Mr. Howard.

Q. What is his first name? A. John Howard.

Q. Do you know who he was?

A. Well, he was just a man I suppose, like any other man.

2307 Q. He was a miner?

A. Well, I could not say he was a miner. I don't believe I ever heard of him mining any since I lived there.

Q. What did he tell you?

A. That I had better get my family away—that the woods were full of men.

Q. What did you do? What time in the morning was that?

A. This was about twixt 8:00 and 9:00 o'clock.

Q. What did you do after that?

A. Took my wife and children over to John Baskins as quick as he told me.

Q. What happened to you during that day?

A. I took them over there and then is when they began to fire the camps. I think probably they was burning the

whole camps up, and I went over there to see what they were a doing, and while I was there at the house, a man by the name of Nichols came there and ordered me to open my house, that he wanted to search for guns and he took my revolver and shotgun and Winchester and said when it was over he would return them, and I have never seen them yet.

Q. Where did you go after that?

A. Why, he arrested me and told me I had to go with them, and he took me just down to the road and then he ordered another man to take me up to the school house where these other men were.

Q. Do you remember what other men were there?

A. These boys—them two men that was shot and these boys,—the two of them that were just on the witness stand. I don't know their names. They were there and Sam Thomas.

Q. What did they do with you?

A. When they ordered me to,—when they ordered me
2308 out of the house—

Q. (Interrupting.) What house was this?

A. This little log house.

Q. Did they put you in the log cabin too?

A. Yes. We all went in there out of the rain. There came up a hard shower of rain and they told us we could go in there out of the rain, and we all went in there, and when they told me to come out—

Q. (Interrupting.) Who told you to come out?

A. Slankard.

Q. Do you know whether that was Jim Slankard, the constable? A. Wasn't it John Slankard?

Q. Give your best recollection about who that was.

A. That was the man, the constable.

Q. Slankard? A. Yes.

Q. What did he say?

A. That he was going to take them out before the Grand Jury, I understood them to say.

A Juror: What did you say?

A. (Continuing.) I understood him to say they was going to take them out before a Grand Jury.

Q. Did he arrest anybody?

A. No, sir, he took them out.

Q. Oh, I see. This was just before the shooting took place? A. Yes.

Q. What did he say?

A. He said he allowed to take us all before the Grand Jury.

Q. At Hartford?

A. I don't know. The other boys rushed right out and I was sitting down back in the corner like and they just run right out and I happened to be the hind one, and when the shooting [begann] I just stopped and stood still there. I could not think of what was going on for a little bit.

2309 And I came out and stepped back the other way a little piece and they ordered me to come on around and I just walked around there and about that time Slankard was going off back over the hill and there was a pretty good sized kind of red mustached man told him he was not going to have any more men shot, to go back over the hill, and the men with the guns went on away, and he told me to go if I wanted to, and I went on over back to John Baskins, where my wife was.

Q. How many men was in the crowd where the shooting was going on?

A. About—they was scattered around there, but I could not tell you was over by the school house, but there was about 50 where we were.

Q. Did Slankard arrest anyone for that shooting?

A. No, sir, I didn't see him after I saw him going away.

Q. They didn't get you to testify in Greenwood in the Circuit Court? A. No, sir.

Mr. Hull: That is all.

Cross-Examination

By Mr. Covington:

Q. What mine did you work at? A. Sir?

Q. No. 6?

A. I was hauling—cutting props and hauling them over to 6 and 7, I think.

Q. How far is No. 6 from the No. 4 shaft, where this trouble occurred?

A. Well, it is about three and one-half or four miles.

Q. Three and one-half or four miles? A. Yes, sir.

Q. You were not at work that day?

A. No, sir, I didn't work that day.

Q. Did you see the shooting?

2310 A. No, I was in the house when the shooting was done. The man had the revolver in his hand when I walked around the house.

Q. Did you see a man with a revolver in his hand?

A. Yes, sir.

Redirect Examination

By Mr. Hull:

Q. Did you see any men on the ground?

A. Yes, that Sylesberry boy and another man, a one-armed man.
Q. Were they dead?
A. I am satisfied the one-armed man was dead, but Sylesberry was kind of wallering around and groaning.

Mr. Hull: That is all.

Mr. Covington: Stand aside.

(Witness Excused.)

2311 MELVIN ROBERTS, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:
Q. What is your full name? A. Melvin Roberts.
Q. Where do you live, Mr. Roberts? A. At Hartman.
Q. Speak up so that all can hear you, Mr. Roberts. I have heard you talk louder than that.
[—] How long have you lived down there?
A. I have been there about 22 years.
Q. What is your occupation?
A. Farming, principally.
Q. Did you go to work for the Bache-Denman Company in the spring of 1914? A. Yes, sir.
Q. What were you to do down there?
A. Well, I didn't have no special job, just first one thing and then another.
Q. Did you do some guarding there?
A. Yes, some little, I don't know how many shifts.
Q. Were you there the day of the battle? A. Yes.
Q. Did you get away with Buster Moore's crowd?
A. Yes, sir.

Mr. Hull: That is all.

Cross-Examination

By Mr. Covington:
Q. When did Buster Moore leave the mine?
A. Well, I suppose it was between 12:00 and 1:00 o'clock.
Q. Did you go out with him? A. Yes, sir.
Q. Who else was in the crowd?
A. Well, I don't know, I could not call their names. There was about 37 I think.
Q. 37? A. Yes, altogether.

Q. Mr. Moore was not with that bunch?
2312 A. Yes, and old man John Eustis, Bud Eustis.
Q. Was Pat Moore in that crowd?
A. I don't remember seeing him.
Q. Was Malloy in that crowd?
A. I don't remember seeing him, I couldn't say.
Q. Did you leave anyone at the mine?
A. I couldn't say whether we did or not.
Q. Was there any fire there when you left?
A. No, sir, not that I seen.
Q. Did you stop out near the mine?
A. No. We came to Hackett City and got a train that night.
Q. Did Mr. Moore come in with you?
A. No, sir, he left us over to the spring, him and Mr. Eustis. They made arrangements to get some ladies. They went to get an automobile to take them away.
Q. There was no fire there up to the time you left?
A. No, sir.

Mr. Covington: That is all.

Redirect Examination

By Mr. Hull:
Q. You did not burn the mine before you left?
A. No, sir, I didn't think about them being burned.
Q. How many left with you?
A. About 37 I think.
Q. Did you look back and see No. 4 burning after you left?
A. After I got about a mile away we were resting and looking back and seen the smoke piling up over there and we didn't know at the time what it was.

Recross Examination

By Mr. Covington:
Q. Were you a witness in the trial of the case of the
2313 Midland Valley Railroad Company against the insurance company for the destruction of the tipple?
A. No, sir.

Redirect Examination

By Mr. Hull:
Q. Was there a good deal of shooting into the camp that morning? A. Yes.
Q. Describe it a little.
A. It was pretty rapid. It would ease for a few minutes and then it would seem like it started up again.

Q. Where were you most of the morning?
A. Well, I was off about 300 yards from the tipple in a thicket most of the morning. I started to leave with the other boys that was captured and they got out in the field that was in an open and they began to shoot and me and another fellow broke into the thicket and laid behind a log until 11:30, a couple of hours.
Q. What boys did you start to leave with?
A. The Douthett boys, and the other that was killed. There was ten of us. Two started back and eight went ahead.

(Witness excused.)

2314 S. T. MOORE, called as a witness in behalf of the plaintiffs, being duly sworn testified as follows:

Direct Examination

By Mr. McDonough:
Q. Please state your full name. A. S. T. Moore.
Q. Generally called Buster Moore by your friends?
A. Yes, sir, that is my nick-name.
Q. You are generally known as Buster Moore? A. Yes.
Q. Where do you live? A. In Fort Smith.
Q. Are you a man of family? A. Yes, sir.
Q. Were you in the employ of what is known as the Bache-Denman Companies in July, 1914? A. Yes, sir.
Q. In what capacity were you employed?
A. Well, I was in charge of their mines and property in general.
Q. As superintendent? A. Yes, sir.
Q. Do you remember when you went there in charge of their mines as superintendent?
A. Well, I had been with the Bache-Denman Coal Company one way or another ever since they had been in the state, but I went to that mine thirty days, I judge, before this fight we had out there. I don't remember just on what date, but it was something like that.
Q. Where were you on the morning of July 17th?
A. I was at home in Midland. I lived there at that time.
Q. You lived at Midland at that time? A. Yes, sir.
Q. What was the first knowledge you had, of the difficulty that morning?
A. Well, the first actual knowledge I had, was when I got out to the mines and the men at the mines told me
2315 there had been some shooting early in the morning, about 5:00 o'clock.

Q. Did you hear the shooting yourself?
A. No, sir, I did not hear it myself.
Q. Were you at the mine on the day before, on July 16th?
A. Yes, I was there.
Q. And where were you, if you know, on the Sunday before?
A. I was at home. I had been there all the time except to be at Fort Smith occasionally a day at a time. I was there practically all the time. I think I was at home that Sunday.
Q. I wish you would describe what practice you had there with reference to guns, what was done with them when they were not being used b ythe guards; state if you know.
A. There was a good many guns out there, just the number I don't know, and the guns were kept locked up and [ketp] in the office we had there except the few used by the fellows we had kind of on picket duty to see that no one came around that had no business there. That was about all the guns that we had. Those were all that we would hand out.
Q. Did you have any knowledge that any of the employees that were under you had anything to do with the so-called shooting up of Frogtown? A. No, sir.
Q. When the guns were not being used by the guards, do I understood you to say that they were locked up?
A. Well, they may not have been under a lock and key, but they were in the office and there was always a man in charge of the office.
Q. Was that the custom—was that practice kept up to the 17th of July, the day of the battle? A. Yes, sir.

2316 Q. Now, on the day of the battle, I wish you would describe what you did when you first got knowledge that the trouble was on, in your own way. Speak out loud so the jury can hear you.

A. Well, I got out to the mine about 7:30, I judge, and the fellows at the mine told me what I have stated, there had been some shooting in the morning before, and I didn't know at that time—I figured that probably there was not going to be any more trouble and Mr. Eustis was there. The telephone line had been cut the day before, and his boy and someone [eles] had gone out sometime before to fix the line and had not come back and he was getting uneasy. And I wanted to go over to Midland and he went over with me to see if he could locate his boy. And we got over to No. 4 camp.

The Court: Speak up a little louder, Mr. Moore.

A. And I noticed a man coming out from his house, leaving his house, and I noticed that two or three times—and I asked him why he was leaving, and he said he was notified to

get out, that there was going to be some shooting, that there was going to be a clean-up of the place.

Q. Who was that man?

A. I learned his name was Stanley.

Q. The man on the stand a few minutes ago?

A. He looks like him. It was so long ago I couldn't be sure, but I learned that was his name. I went back to the mines and just about the time I got there they began shooting on the ridge over to the school house and we got out the guns and gave them to the fellows and most of the men that got the guns and cartridges left right away and we had 18 or 20 guns left in the place and thirty odd people. And they kept up exchanging shots around there until about 12:00 or 1:00 o'clock and the ammunition got low, and it looked like
2317 it was going to get stronger, and I left the building—left the people that was left there. I wanted to take them across the creek. They all had no money and wanted to go to Fort Smith. And I went home then and ate dinner and went out to get some money to take them to Fort Smith and I failed to locate them. I don't know where they went. They didn't stay where I told them to. And I went back home. That is about the sum and substance of the thing.

Q. Do you know—could you see the men that were doing the firing into the property?

A. No, not very well. I could see an ocasional man, but I could not tell who he was.

Q. Could you recognize anyone at all?

A. No, sir, I didn't recognize anyone. No one got close enough to me for me to recognize them.

Q. Did you hear any of the bullets?

A. Yes, sir, a good many.

Q. Where were the bullets going? Where were they striking?

A. Some were going high and some were hitting the ground and box cars and the tipple timbers and one thing and another.

Q. Did any of them come near you? A. Yes, sir.

Q. Was any of the men in your employ hit by the bullets?

A. No, sir, no one in there was hit.

Q. How near did the bullets come to you?

A. Well, they come pretty close. One or two grazed my arm a little.

Q. What kind of bullets were they? Did you see any of them? I mean after they had spent their force did you see any of them?

A. Yes, sir, I picked up two or three. They were of different calibre. Some looked to be larger than others. They were metal jacket bullets. The bullets were battered
2318 up and you could not tell what they were.

Q. Can you give any idea of about how many men there were firing into the mines?

A. Well I would judge there were some two or three hundred guns being used.

Q. State whether or not it was continuous with these little intermissions from the time it began in the morning up until about noon? A. No, sir.

Q. Was there any firing of the guns at you or your party as you were leaving?

A. I don't know that any was aimed directly at us. Some few bullets hit around. I really don't think any knew we were leaving at the time we left. They may have.

Q. What was the condition of the mine, the tipple, and the blacksmith shop and all that at the time you left, as to whether it was on fire or not? A. No, it was not on fire.

Q. Had any fire been set out before you left?

A. No, sir.

Q. When did you first realize that any of the property had been burned or destroyed by fire? A. You mean No. 4?

Q. Yes.

A. Well, after I left there I could see smoke rising. To my actual knowledge I could not tell whether No. 4 was burning or not.

Q. Was it coming from the direction No. 4 was? A. Yes.

Q. Did you see any smoke coming from No. 3?

A. I saw No. 3 burning in the morning while the fight was going on. That is one thing that took place early in the morning. Mammoth Vein and No. 3 were both burned.
2319 I could see No. 3 plainly and saw Mammoth Vein plain enough to know it was the mine.

Q. Did you hear any explosion?

A. Yes, and there was some kind of an explosion set off in No. 3 mine that connects that underground passage way into No. 4.

Q. Mr. Moore, prior to the battle were you there, if this was prior to the battle—at the time Mr. Berkell was brought into the camp? A. Yes.

Q. State what you know about that?

A. Mr. Berkell had been brought in there before I got there. That was previous to the battle.

Q. That is what I thought.

A. When I got out in the morning they had him over there. One of the marshals was out there, I have forgotten his name now. Anyhow he had him out there in a tent, him and probably someone else when I got there in the morning. Some of the boys claimed to have taken him up trying to cut a telephone line, or something to that effect, or a light wire.

Mr. Warrum: The defendants separately move to strike out the last part of the answer beginning "some of the boys claimed to have taken him up" and so forth.

The Court: That is stricken out.

To which ruling of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Q. State what was done with reference to Berkell.

A. Well, I asked this [Marshall] what he was going to do with him, or what right he had with him, and he said he had none, that he did not have any right to hold him, and so then I told Berkell that we could not keep him there, but
2320 would let him come to Fort Smith with me. And I brought him up here to Fort Smith to the attorneys. He came up in the car with me. He could have gotten out if he had wanted to any place, but he was willing to come, so he stated. He said he was on his way home from some place over there, when the boys took him up and he hadn't done anything, and he was perfectly willing to come with me. That was his statement in the matter. And he came up here and I don't know whether the attorneys used him in Court or not.

Q. Do you know whether the trial of the condemnation proceedings were going on at that time?

A. Yes, sir, I think it was at that time. It is not clear to me just now, but I think it was.

Q. Were you down there any more after the battle, Mr. Moore?

A. Well, I have been by there since. I was not there right soon after, no, sir.

Q. With reference to the direction of the shooting, could you tell where the first shots were? What direction they came from?

A. Yes, they came from over on the ridge, near the school house or probably along the railroad and between—in that direction.

Q. What direction is that from Mine No. 4?

A. That is west.

Q. Did they come from any other direction during that time?

A. Yes, they came from the south side, above 3 tipple, and some from down the tracks below the mine, from a north direction, not exactly north.

Q. Were there any women or children in your party that you were taking away with you?

A. Yes, there were two or three women. One or two of them had babies.

2321 Q. What was done with them?

A. They were in the boiler house, between the boilers.

Q. Where were they at the time of the battle, in the forenoon?

A. That is when they were in the boiler house between the boilers.

Q. You spoke of shots hitting the cars. Were they loaded coal cars?

A. Some of them were loaded.

Q. Loaded with coal from the mine? A. Yes.

Q. Was the coal to be shipped out? A. Yes, sir.

Q. Did you look after the billing of it, yourself personally, or someone else?

A. No, I didn't do it myself personally, our bookkeeper looked after that.

Q. Do you know how many cars of coal were loaded to be shipped out?

A. I may have known at that time, but I don't know now just how many there were.

Q. Give us your best recollection about that.

A. Probably four or five, something like that.

Q. Did you see Baskins and Sylesberry when they left there? A. No, sir.

Q. They were in the employ of the company, were they?

A. Yes, sir.

Q. What was Sylesberry, was he a coal digger?

A. Well, he had been around the mines I suppose all the time, but he was working on top over around the shaker and tipple.

Q. Do you remember what the Douthetts did?

A. No, sir, I don't.

Q. They worked there at the mine, did they?

A. There was no one fellow that had any particular job there. They would work one day at one thing and an-

2322 other day at something else.

Q. What time in the day did Douthett and Sylesberry and Baskins leave?

A. They must have left early in the morning.

Q. Had you, up to that time, while you had been there, shipped out any coal?

A. Well, I don't remember whether there had been any coal shipped or not, but I think there had. I am not sure about that. The office department shipped all the coal and billed it and I don't know, I can't answer that question as to whether we shipped any coal or not.

Mr. McDonough: That is all.

Mr. Covington: No questions.

2323 Mr. Hull: We offer the deposition of Joseph A. Parrish (reading):

"Joseph A. Parrish, called as a witness in behalf of the plaintiffs, being duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. What is your full name?

A. Joseph Anderson Parrish.

Q. Where do you live?

A. My home is in Mena, Arkansas.

Q. What is your present occupation?

A. My present occupation is, I am connected as aviator with the Aviation Section of the Signal Corps, United States Army.

Q. You are at present at a Concentration Camp at Fort Wood, where you are now awaiting orders to sail for France?

A. Yes, waiting to sail for some place in France, we do not know where.

Q. Will you state where you were along in the spring of 1914?

A. In the spring of 1914 I was around Mena, Arkansas.

Q. Would you state whether or not you went from Mena to Fort Smith, Arkansas? A. I did.

Q. State what you did after arriving in Fort Smith?

A. I made two trips to Fort Smith.

Q. State when the first trip was?

A. I don't remember the exact date of the first trip, but it seems to me it was some time in the latter part of April.

Q. 1914? A. 1914.

Q. Did you on that first trip go from Fort Smith to the vicinity of Hartford, Arkansas?

A. I did; I went to Mine No. 4.

Q. Was that Prairie Creek, Arkansas? A. Yes.

Q. That was a mine belonging to the Bache, Denman

2324 Company? A. It was.

Q. What did you do there, at Prairie Creek, Mine No. 4, when you went there, on your first trip?

A. Well, there, on my first trip, I performed, or I was supposed to perform, the duties of a Special United States Deputy Marshal.

Q. Under whom were you serving?

A. I was serving under Deputy United States Marshal Holt.

Q. Was that James Holt?

A. I don't remember his initials.

Q. Where does Mr. Holt come from?

A. He lived in Mena, Arkansas, at that time.

Q. With whom did you go to Prairie Creek on this first trip?

A. I went to Prairie Creek, in person, with Mr. Holt, and with others, of whom I remember Leo Schell and Lee Harmon.

Q. Were they also from Mena? A. They were.

Q. Were they also serving as Special Deputy United States Marshals? A. They were.

Q. Were there any others that went from Mena at this same time? A. Yes, sir.

Q. How many?

A. I don't remember, about fifteen others as I remember.

Q. And they all went to Prairie Creek, Mine No. 4?

A. Yes, sir.

Q. And served there also as Special Deputies?

A. Yes, sir.

Q. Do you know what the occasion of your company being sent there was, why the Deputies were sent to Mine No. 4?

A. The Deputies were sent to Mine No. 4, as was stated to us, because a few days previous to that there had been a riot at Mine No. 4, and that the Local Union had re-
2325 fused to operate the mine and had refused to let the mine be operated, and were raising considerable trouble in the vicinity, and were making it dangerous for the inhabitants of the immediate vicinity.

Q. From whom did you receive your instructions?

A. I received my instructions from United States Marshal Holt.

Q. Did this information which you have just stated come to you in those instructions to you? A. They did.

Q. Will you state what your instructions were, what instructions you got as a Special Deputy?

A. The instructions that I got as a Special Deputy, as I remember, were that I was being sent to Mine No. 4 to preserve order; that there was a state of disorder around Mine No. 4, and damage was being done to public property and that we were to be sent there to preserve order.

Q. How long did you stay at Mine No. 4 as a Special Deputy?

A. As I remember, I stayed at Mine No. 4 about two weeks as a Special Deputy.

Q. At the expiration of those two weeks did you return to Mena? A. I did.

Q. After that time did you return to Fort Smith again?

A. Yes, sir.

Q. And to Prairie Creek, Mine No. 4? A. Yes.

Q. In what capacity did you return?

A. I returned, and I became an employe of the Coal Company.

Q. Of the Bache, Denman Coal Company? A. Yes.

Q. When did you go to Prairie Creek on this second trip?

A. If I remember correctly, the date was June 15, 1914.

Q. Did you go by way of Fort Smith? A. I did.

Q. Will you state what, if aynthing, occurred between Fort Smith and Prairie Creek, Mine No. 4, on that date, June 15th?

2326 A. A number of men, including Mr. Harmon and myself, took a train from Fort Smith to Mine No. 4. We experienced no trouble as far as Midland, Arkansas. At Midland, Arkansas, a number of men got on the train, and immediately began to make remarks that indicated that their attitude toward us was rather a hostile one.

Q. What do you remember being said?

A. We were referred to as scabs.

Q. Who were those men, if you knew who any of them were?

A. I remember one of these men as being Clint Burris, and another one of these men was Sandy Robinson.

Q. Do you remember any others?

A. I don't remember any other names just now.

Q. By way of refreshing your recollection, I will ask you if you remember John Manick on that train?

A. I did see John Manick on that train.

Q. Now, you said you were referred to as scabs; who referred to you as scabs?

A. These three men, particularly, I noticed.

Q. State what, if anything, occurred as you were getting off the train at Prairie Creek?

A. When the train stopped at Prairie Creek I met two or three other passengers demanding to get off the train, and the three men I have named seemed to be the leaders of a mob who [interfered] with our getting off the train. Nearly all of the men had managed to get off before I undertook to

get off myself. When I arose to get off and started toward the door, I met, just in the door, or inside of the door, Sandy Robinson, whom I passed, not paying any attention to him;

2327 I had gotten in the doorway, when something struck me in the back of the head and knocked me clear out into the brake chains. When I recovered from the blow I got, I looked around and I saw Sandy Robinson going through the car, looking back over his shoulder at me.

Q. Was there any one between you and Sandy Robinson at that time?

A. There was no one between me and Sandy Robinson at that time.

Q. You say something struck you; was it a missile thrown at you or did somebody push you? A. I couldn't say.

Q. But, whatever it was, it was of sufficient force to throw you out on the brake chains? A. It was.

Q. State whether or not Leo Schell, Deputy United States Marshal, was there at the time at the train?

A. He was near the train when the train stopped, and he was soon on the scene of action, trying to stop the trouble and seeing that the passengers got off the train with safety.

Q. Were any threats made by any of these three men that you have named about your getting off, or anything of that kind? A. There were threats made.

Q. Coming now to the 17th of July,—that was the day of the trouble at Mine No. 4, when some buildings were burned; do you remember that time?

A. If I remember correctly, it was the 17th of July.

Q. Do you remember what day of the week it was?

A. I do not.

Q. What were you doing on the morning of the battle, if it occurred on that day?

A. On the morning of the battle I was acting as a watchman on guard at the tipple of Mine no. 3.

Q. What had been your duties from the 15th of June up to this time?

A. My duties had been attending to an electrical traffic pump at the base of the shaft, in Mine No. 4.

2328 Q. Pumping operations were going on all that time?

A. Yes.

Q. Do you know what the situation of the mine was at the bottom of the shaft?

A. It was full of water.

Q. How long had you been guarding, as you say, at the time of the battle?

A. If I remember correctly, I had been guarding three or four days.

Q. Had you, during those three or four days, gone over into the territory called Frog Town at any time

A. I had not.

Q. Had you known of any guards going over there?

A. No.

Q. Did you discharge your gun at all while you were there at Mine No. 4?

A. If I remember correctly, I did not discharge my gun while I was at Frog Town.

Q. Where were you on the morning of the battle?

A. On the morning of the battle I was on the tipple of Mine No. 3 when the battle started.

Q. With whom were you at that time?

A. I was with my brother, Ed. Parrish.

Q. Where is Ed. Parrish now?

A. He is in San Francisco.

Q. What is he doing there?

A. He is in the Naval Training School.

Q. Who else was with with you there?

A. I don't remember the man's name who was with us at the tipple.

Q. What did you first see or hear of any trouble?

A. The first thing that suggested trouble to us was operations over in what was known as Frog Town, by hand cars going in and out on the railroad track, and boxes and other things which we did not recognize, being unloaded and being put into houses and storerooms and so forth.

Q. What time was that, about?

2329 A. That was about 7 o'clock in the morning.

Q. When did you go out on duty?

A. We went on duty about 7 o'clock in the morning.

Q. State what occurred next?

A. From that our attention was called to a number of men crossing the woods from what was known as the Frog Town, towards the tipple of Mine No. 3; and they had guns and they seemed to be trying to conceal themselves by going from one tree to another.

Q. How many men did you see with guns at that time?

A. I didn't count the men, but I should say that there were around a dozen or fifteen men.

Q. Had you, previously to that time, heard a volley of shots or firing early in the morning?

A. I had sometime before daylight; there were a number of shots fired into camp of Mine No. 4.

Q. You were sleeping at Mine No. 4, were you not?

A. I was.

Q. After you saw these men with guns going from tree to tree, what did you do?

A. I remained on the tipple of the mine and they began to shoot through their place of concealment at us, in the tipple; and at that point I climbed down out of the tipple and started to camp No. 4, to tell the men that we were having trouble at No. 3.

Q. Did your brother go with you?

A. He did not, at that time.

Q. Did he come into No. 4 later?

A. The men came in, and my brother—

Q. (interrupting)—You don't know that of your own knowledge, do you? A. No.

Q. State only what you know?

A. I know that my brother came in shortly after me.

2330 Q. What did you do at No. 4?

A. At No. 4 I reported to the men that we had sent a number of men and that we had been fired on.

Q. Who was in charge of the Mine at that time?

A. I don't remember.

Q. Was it Buster Moore?

A. If I remember correctly, Mr. Moore was in charge of the Mine at that time.

Q. State what you did, without further questioning, what you did and what you saw and what you heard, up to the time you left the mine?

A. From that time, shots were continually fired from the woods surrounding Mine No. 4, in at the shaft and at the men around the shaft.

Q. From what direction?

A. Seemingly from every direction.

Q. How many shots were fired?

A. There were too many shots fired for me to count them —quit a number of shots.

Q. Go ahead.

A. The firing continued from the outside, and some little firing from the inside out on througout the day up until after 12 o'clock. Shortly after 12 o'clock Harmon, my brother and myself and Pat Molly, concealed ourselves in a part of the railroad track construction near the shaft of No. 4, and remained there until the firing discontinued from the shaft.

Q. Were you shooting all that time?

A. Some of the boys were shooting; I personally did not shoot.

Q. Did you have a gun?

A. I did. We remained there until about 2 o'clock, and the shooting had ceased, perhaps, an hour before at the shaft, although the shots were continually coming in from the surrounding timber. About 2 o'clock we came up from our place of concealment—

Q. (interrupting). Just a minute had you seen any
2331 firing or had you seen the effect of any explosions during that time?

A. I had; I had seen the effect of an explosion at the entrance to Mine No. 3.

Q. What time was that?

A. That was sometime before noon.

Q. Did that explosion have some effect also at No. 4?

A. It did; it shook the shaft at No. 4 considerably.

Q. Where were you in relation to the shaft when it took place?

A. We were, it seems to me, close around the shaft at that time.

Q. Do you know whether No. 3 slope, as it was called, was called the No. 3 shaft under ground?

A. If I remember correctly, it was.

Q. Did you see any fire before 2 o'clock, any smoke?

A. I don't remember.

Q. State what you did about 2 o'clock?

A. About 2 o'clock my brother and Harmon, myself and Pat Molloy came out from our place of concealment to see what the men were going to do, and we found that there was no one there.

Q. Where?

A. At the shaft, no one at the shaft. We found there that we were alone, and we immediately started toward a thicket, just east of the shaft, and there we concealed ourselves in the brush for perhaps 30 minutes. During that time men passed on the road which ran very close to the one we were going towards the shaft; and at about the end of that 30 minutes we heard shouting and whooping and shooting right where we knew the shaft to be located; and we got up at that time and started in an easterly direction towards Mansfield, Arkansas.

Q. Did you at that time see any flames or smoke?

A. Immediately after we left our place of concealment, we saw very large flames and smoke, about where we knew the shaft to be located.

2332 Q. At No. 4 shaft? A. Yes, at No. 4 shaft.

Q. Where did you go then, to Mansfield?

A. We went from there to Mansfield.

Q. Did you have any trouble in Mansfield?

A. At Mansfield we expressed the rifles which we had expected to take by train.

Q. What did you do in regard to expressing those rifles?

A. We expressed them in the usual way, and had a receipt from them, which my brother had in his pocket.

Q. What became of the receipt?

A. The receipt was taken from him by the mob which surrounded us later.

Q. Did you see that done A. I did.

Q. What was done with the receipt after that, if you know?

A. The men who took the receipt started toward the express office and said they intended to get the rifles.

Q. What happened then?

A. Immediately after that the mob closed in on us with threats and blows, and we experienced a very difficult time for the next few minutes.

Q. Were any remarks made to you?

A. There were very violent threats made.

Q. What was said by either you or by the people around you?

A. The people around us asked us where we had been and what we had been doing.

Q. What did you tell them?

A. We told them we had been with Mine No. 4 as employes of the Bache, Denman Coal Company.

Q. What did they say to you then?

A. I don't know what they did say to us then.

Q. Well, not telling the words, but what effect did your announcement that you had been working in Mine No. 2333 4 have on them?

A. Well, when they learned where we had been and what we had been doing, we seemed to make them still more antagonistic toward us and it produced violent effects.

Q. What did they do then?

A. They proceeded to beat us up.

Q. State in detail how you were beaten up?

A. Well, we were simply carrying on a conversation when men immediately in front of us began to strike us on the head and in the face and on the body.

Q. Did you or your brother or both of you, did you go down? A. We did; we both went down.

Q. Were you knocked down or did you go down voluntarily?

A. We were knocked down.

Q. Did any one come to your rescue, so to speak?

A. Some one finally interfered with the mob after we had been knocked down on the pavement.

Q. Do you remember whether that was Express Agent?
A. I don' remember who it was.
Q. State what you did then?
A. We were told by the Express Agent that it would be unsafe to attempt to stay there until the train came, and we had best walk out of town and go to Fort Smith the best way we could.
Q. Did you do that?
A. We walked from Mansfield to Fort Smith.
Q. How far is that, do you know?
A. I do not know how far it is.
Q. What time did you get to Fort Smith?
A. We got to Fort Smith the following day about 2 o'clock.
Q. What time did you leave Mansfield?
A. We left Mansfield about 6 o'clock in the evening.
2334 Q. I neglected to ask you in connection with the trouble of June 15th, on the train, whether any of those men you named, meaning Manick, Robinson or Burris, had any sticks or clubs in their hands?
A. Burns had a baseball bat, and other men in the crowd there had bats and clubs.
Q. Did you see Clint Burris hold that bat over anybody's head or do anything with it?
A. Burris waved his bat in a threatening manner rather freely throughout the car.
Q. I want to also ask you were you in school just previous to going to Fort Smith in the spring of 1914?
A. I was.
Q. Where were you?
A. In the spring previous to that I had been in the High School at Mena Arkansas. Previous to that I had been in Transylvania College, at Lexington, Kentucky.
Q. How long were you at Transylvania? (No answer)."

Mr. Covington: I will read one question on the bottom of page 22 (reading):

"Q. How old are you?
A. At present I am 22 years old."

Mr. Covington: We will omit from there to the bottom of page 25 (reading):

"Q. You say on the 17th of July you left Mine No. 4, about 2:30 or 3 o'clock in the afternoon? A. I did.
Q. And you saw no fire before leaving there any time during the day?

A. I saw the effect of an explosion at Mine No. 3 but I don't remember seeing any fire before I left the Mine."

Mr. Covington: We will omit the remainder of the cross-examination.

Mr. Hull: I think I will let the record show that 14 pages of the cross-examination are omitted.

I want to read at this time, or it is not necessary to read it, but just to state that it is stipulated by and between
2335 counsel on both sides that the testimony of Ed. Parrish, the brother referred to by John Parrish, would be substantially the same if Ed. Parrish were here. Is that satisfactory?

Mr. Covington: I want the stipulation in the record. You didn't return my copy, but I understand there is a stipulation.

The Court: If it is reduced to writing, you had better offer it in evidence.

Mr. Hull (reading):

"In the United States District Court for the Western District of Arkansas. Fort Smith Division.

Coronado Coal Company, et al., Plaintiffs,
553. vs.
United Mine Workers of America, et al., Defendants.

It is expressly agreed and understood by and between Roger B. Hull, counsel for plaintiffs, and Webb Covington, counsel for defendants herein, that the testimony of Ed. Parrish, if taken by deposition or given orally in open court, would be the same as that of his brother J. A. Parrish, whose testimony was taken before George F. Bentley, Esquire, Notary Public at Liberty Island, New York City, on September 17th, 1917, which deposition is now on file in said United States District Court, and is a part of the record in the above case; that the same may be read as the testimony of the said ..... Parrish, subject to any and all exceptions as to competency, relevancy and materiality, which it is agreed may be made and urged at the trial of this cause, the same as agreed and stated further in the stipulation in ref-
2336 ference to the deposition of J. A. Parrish."

The Court: Let the stipulation be filed and made a part of the record.

Mr. Hull: And I offer the part of the stipulation regarding the testimony of Mrs. Eva Trannell.

The Court: Let the stipulation be filed and become a part of the record.

Mr. Hull: The stipulation is as follows: "It is further agreed and stipulated that the testimony as heretofore given by Mrs. Eva Trannell, on behalf of the Government in the case of P. R. Stewart et al., vs. The United States of America, and set out in full in the printed record thereof, beginning at bottom of page 486 and ending on page 494, may be read upon the trial of this case by the plaintiffs, the same as if it had been taken by deposition in this cause, subject, however, to any and all objections that may be made by the defendants, or either of them, and it is expressly agreed that any such objections may be made and presented to the court and urged upon the trial of this cause. Roger B. Hull, Attorneys for Plaintiffs. Webb Covington, Attorneys for Defendants."

I desire to offer the testimony of Mrs. Eva Trannell, in the case of R. P. Stewart vs. The United States of America, set out in full in the printed record thereof, on page 486, and ending on page 494.

The Court: Is the printed record a record of this court, if not, you had better have the record identified.

Mr. Hull: It is the court transcript of that proceeding.

The Court: Is this you are reading from a file of the court? If not, you had better have it identified, so there will
2337 be no question of what you [ar] reading from hereafter.

Mr. McDonough: It is really a file, but it is printed here in the bill of exceptions on the appeal to the Circuit Court of Appeals.

The Court: You had better have it identified and marked by the reporter, to show what you have read. You want something to know that it is authentic.

Mr. Hull: I will have the book marked then plaintiffs' exhibit 45.

(The transcript referred to was marked by the reporter plaintiffs' Exhibit 45.)

Mr. Hull: I will read, beginning on page 486, Mr. McDonough, will you read this?

Mr. McDonough (reading):

2338 "MRS. EVA TRANNEL, a witness sworn for the Government, testified as follows:

Direct Examination

By Mr. McDonough:

Q. Where do you live? A. Midland.
Q. Were you living there in July, last month?
A. Yes, sir.
Q. How long have you been living there?
A. I came there in November.
Q. What was your [bueinss] there, what were you doing?
A. Telephone operator.
Q. At the Midland office?
A. Yes, sir, night operator.
Q. Had you been night operator there during May, June, July and August? A. Yes, sir.
Q. You are night operator?
A. No, sir, not now. I resigned.
Q. Were you the operator there on July 16th and 17th?
A. Yes, sir.
Q. Night operator? A. Yes, sir.
Q. The office at Midland is kept open at night is it?
A. They keep an operator there, but they don't allow anyone in there. They keep an operator there all night.
Q. Business is not [trasnacted] through that office?
A. Yes, sir, through the office.
Q. At night? A. Yes, sir.

2339 Q. At that time did people talk over the 'phone from that office?

A. Not form the office but from town. They didn't come to the office.
Q. And you made connection to the 'phones in town?
A. Yes, sir.
Q. On the morning of the 17th, the time of the fight down there, the battle, where were you? A. I was at Midland.
Q. And what were you doing during that morning—were you on duty during that morning?
A. I went off at 7:30 in the morning.
Q. Did you travel in a buggy that morning anywhere?
A. Yes, sir.
Q. From what place did you go?
A. I went from Midland to Hartford.
Q. Did anybody stop you on the way? A. Yes, sir.
Q. Who was it?
A. Two men. Well, there was some more than two, but I recognized the two.

Q. Were they armed men? A. Yes, sir.
Q. Were they all armed?
A. I didn't pay any attention to only the two that was stopping us there.
Q. Where did you meet them?
A. On the road to Hartford, between Midland and Prairie Creek.
Q. How far from Mine No. 4?
A. I don't know just now.
Q. You met the men between Midland and Prairie Creek?
A. Yes, sir.
Q. Who were the two men that you recognized?
A. Mr. Dunn and Mr Burnett.
Q. Pink Dunn and Geo. Burnett? A. Yes, sir.
Q. Were they armed? A. Yes, sir.
2340 Q. What did they say to you, if anything?
A. Mr. Burnett said—told her to turn back, Miss Woodson was with me, and she asked them why, and they said we couldn't go over that road that day, and Miss Woodson said we were going to Hartford, and asked if there wasn't another way we could go and Mr. Burnett said "no", and Mr. Dunn spoke up and said we could go by Mansfield and told us, and Miss Woodson and I said all right and before we got to the road we heard some shooting, and turned around, and went back.
Q. Did you go back by the place where they stopped you?
A. Yes, sir.
Q. Were they there? A. No, sir.
Q. What were they doing when you saw them?
A. They were just in the road.
Q. Standing there or walking along?
A. Standing there.
Q. When you left them, were they still standing there?
A. I didn't look back to see.
Q. They were not there when you came back?
A. No, sir, they were not there when we came back.
Q. They didn't go in the direction you were going—they didn't follow on afterwards?
A. No, sir, I did not see them any more.
Q. Where did you and Miss Woodson go then?
A. We went back up home.
Q. And remained there during the day? A. Yes, sir.
Q. About what time in the day was it that you returned to town?
A. It was before noon, I don't remember the exact time.
Q. Did you hear any guns—any battle?

A. Not until after we passed them. After we passed them I heard some guns, and we turned around and came back.

Q. Could you tell the direction in which the guns
2341 were?

A. No, sir, they sounded like they were towards No. 4; and when we heard the guns we turned around and came back.

Q. Were those fellows facing No. 4 or not?

A. No, sir, they were facing Midland.

Q. The way you were going, that would have led you by No. 4? A. Yes, sir, it would have led us right by the mine.

Q. By, or near by? A. Yes, sir.

Q. You made no other attempt after you got back to get away that day? A. No, sir,

Q. Before you went off duty on the morning of the 17th, did you receive any long distance telephone calls from over at Hartford and Huntington, or elsewhere, asking you about the battle?

A. Before I went off business—no, sir. We couldn't get anybody on the line. The lines were out of order.

Q. Did you know where the lines had been put out of order? A. No, sir.

Q. The lines were cut, were they?

A. I don't know whether they were or not.

Q. At least they were out of order? A. Yes, sir.

Q. How long had they been out of order?

A. I forget the exact time it happened. I don't remember the time; but it was during the night.

Q. During the night of the 16th?

A. Yes, sir. It was after I was on duty.

Q. I will ask you again, if during the day of the 16th, that is on Thursday, did you hear any telephone conversation concerning this trouble that came up, saying that it was going to take place?

2342 A. No, sir. I did not know anything about it until 4 o'clock in the morning.

Q. Did you have any long distance calls, either the 14th or 15th or 16th of July, from Hartford, that you can now remember? A. No, sir, I don't remember.

Q. Did you have a conversation with Mr. Field with reference to that trouble?

A. Yes, sir. He called me up the morning before and asked me if I knew anything about the trouble out there, and I told him "no," and he said that he had heard the report and supposed they were having trouble, and I told him that I didn't know anything about it.

Q. What morning was that?

A. It was—I don't remember just what day it was.
Q. Was it the morning of the trouble, or before?
A. It was the morning before that they had a regular battle—before the lines were out of order.
Q. On the morning of the battle the lines were out of order? A. Yes, sir.
Q. And this question came from Mr. Field before the lines were out of order?
A. Yes, sir, before the lines were out of order.
Q. Is that right? A. I don't remember—it was before—
Q. It must have been before, or else you could not have talked?
A. Mr. Field was on a long distance line. It was just the long distance line that was out of order.
Q. Where does Mr. Field live?
A. He lives out in the country on a party line.
Q. He don't live in Midland? A. No, sir.
Q. Are you able to state definitely whether that in-
2343 quiry from Mr. Field was the day before the battle?
A. Well, I don't remember.
Q. Is Miss Woodson here? A. No, sir, she is sick.

The Court: Where do you live now?

The Witness: Midland.

The Court: Does Miss Woodson live at Midland?

The Witness: Yes, sir.

Q. You know yourself she is ill? A. Yes, sir.
Q. That Miss Woodson is the one that was with you?
A. Yes, sir.
Q. The one that is sick? A. Yes, sir.
Q. Did you, one or two nights before the battle, [got] a request from the Huntington central station of the telephone company, to get word to Pete McMulland to bring all the men he could get and come to Frogtown at once?
A. No, sir. I had a call for Mr. McMulland, but the operator didn't tell me that. I had a call to Mr. McMulland over at Hartford.
Q. You know Mr. McMulland—who he is? A. Yes, sir.
Q. He is a union miner there? A. Yes, sir.
Q. An officer of the union? A. He is a union miner.
Q. Did you not hear that conversation?
A. No, sir, I did not.
Q. You had the call?
A. Yes, sir, but I don't know whether I was on the board when the call was put out, or not. I taken the call though.

Q. That came from Huntington?
A. The call was from Hartford to Mr. McMulland.
Q. I wish you would locate if you can, the exact time when that call came to Mr. McMulland?
2344 A. I don't remember.
Q. It was before the day of the battle? A. Yes, sir.
Q. Was it the night before the trouble that the lines were cut? A. Yes, sir. It was before the lines were cut.
Q. Did you hear any conversation on that second night from either Hartford or Huntington, to come to the meeting at Frogtown?
A. No, sir, I don't remember anything like that over the wires.
Q. Did you hear it from any of the union men—not over the wire? A. Did I hear?
Q. Yes; that they were going to have a meeting of union men at Frogtown?
A. No, sir, I don't know anything about any union men. I didn't know they were going to have any trouble there.
Q. At No. 4?
A. I didn't know it until Mr. Field called me and asked me about it.
Q. I would like to ask you if that call from Mr. McMulland was in the day time or in the night time?
A. I remember of having a call to him, but I go on at 12 o'clock in the day, to relieve the day operator for dinner, and I can't say whether I got it while I was on the board, or after I came on at 5:30 I remember getting the call.
Q. Did you make a memorandum of the party calling for McMulland? A. No, we just had the number of the telephone.
Q. You had to telephone to Hartford? A. Yes, sir.
Q. From town? Didn't you put the name of the caller?
A. No, sir, we don't, Ft. Smith does that.
Q. Ft. Smith does not record the messages that take place between those two towns?
2345 A. No, sir—yes, sir, because they have a ticket and she gives it to us and we put down the number of the telephone, and the party that is wanted.
Q. If a party calls from Hartford to Midland—say somebody at Hartford calls for McMulland at Midland; does Ft. Smith record that call?
A. Yes. She takes the ticket and gives us to him. She gives me the telephone number of Hartford, and Mr. McMulland at Midland.
Q. The office at Ft. Smith puts down the name of the person called?

A. Yes, sir, unless it is a pay station. If we call up a pay station we don't have to take the name of the party calling."

Mr. Covington: I don't care to read the cross-examination.

(Recess was here taken of five minutes.)

Mr. McDonough: If the Court please, there are three questions and answers in the cross-examination that I will read.

The Court: What witness is this?

Mr. McDonough: In the cross-examination that was waived by counsel on the other side on the witness Eva Trannel, beginning at the top of page 492 in the cross-examination. (Reading.)

"Q. Who was standing in the road talking to Burnett and Dunn when you came up to them?
A. There was a man in a buggy, but I didn't know him.
Q. An old gentleman wasn't he?
A. I don't remember. I didn't pay much attention to it.
Q. What was said when you all drove out there? Tell the exact words; who spoke first, and what was said.
2346 A. Mr. Burnett said we would [hve] to turn back, and Miss Woodson said "what for", and he said well, they were turning everybody back; we couldn't pass over that road that day; and then she said could we go to Hartford, she wanted to go to Hartford, and if there was any other road, and Mr. Burnett said "no", and Mr. Dunn spoke up and told us to go by Mansfield, and we heard the reports of the guns before we got to the road, and turned back."

Mr. McDonough: Now we offer in evidence the deposition of N. G. TYLER taken on the 13th day of September 1917. (Reading.)

"Direct Examination

By Mr. James B. McDonough:
Q. Where do you now live?
A. Mammoth Springs, Arkansas.
Q. In what business are you engaged?
A. In the [drugn] and jewelry business.
Q. How long have you lived at Mammoth Springs, Arkansas? A. Since the 16th of March, 1916.
Q. State as near as you can recollect the distance from Fort Smith, Arkansas, to Mammoth Springs, Arkansas?
A. It is about three hundred miles by rail.

Q. Did you ever live in Sebastian County, Arkansas?
A. Yes, sir.
Q. At what town did you live? A. Hartford.
Q. How long did you live at Hartford?
A. I think it was August 1911 that I went to Hartford.
Q. You went there in August, 1911?
A. I believe that was the date, yes, sir.
Q. What business were you engaged in at Hartford?
2347 A. In the jewelry business.
Q. How many years did you remain at Hartford?
A. About five years.
Q. Were you engaged all of that time in the jewelry business? A. No, about four years at Hartford I was.
Q. You were in the jewelry business four years?
A. Yes, sir, I was in the jewelry business all that time.
Q. You were in Hartford then, in the year 1914 were you?
A. Yes, sir.
Q. State whether or not there was at that time a good deal of coal mining carried on in and about Hartford?
A. Yes, sir.
Q. State whether or not the labor in the mines was done by union men? A. I understood that it was union men.
Q. You were not a member of the miners' union yourself?
A. No, sir.
Q. Did you have a trade with the—or from the miners?
Q. Did you have a business from the miners, in other words, were the coal miners customers,—a good many of them—of your store? A. Yes, sir.
Q. Were you [qcquainted] with a good many of them?
A. Yes, sir; quite a good many of them.
Q. Going back to April, 1914, I will ask you if you remember about the occasion of a meeting of people over at the school house near Prairie Creek mine, the mine that was owned by the Companies known as the Bache-Denman Companies? A. Yes, sir; I knew of the meeting over there.
Q. You were not at the meeting yourself? A. No, sir.
Q. Now on the date before this meeting at the school
2348 house over near Prairie Creek, were you in Hartford?
A. Yes, sir.
Q. State whether or not there was a meeting in Hartford on that day? A. Yes, sir, I believe there was.
Q. Do you remember whether that day was Sunday or not, or whether the meeting over at the school house was on a Monday? A. Why, the meeting was Sunday at Hartford.
Q. That was the day before the meeting at the school house, was it? A. Yes, sir.

Q. State, Mr. Tyler, whether or not on the Sunday there was any discussion of the controversy between the miners union and the Bache-Denman Companies with reference to the operation of the Bache-Denman plants on the open shop plan?

A. Well, I wasn't close enough to hear the discussion, although I understood it was being discussed.

Q. State whether or not at that meeting you recall whether or not there was a telegram read to the meeting?

A. Well, it is my impression that there was, but I couldn't be positive.

Q. Were you near enough to hear the contents of the telegram, or the substance of it? A. No, sir.

Q. Do you know who read the telegram?

A. No, sir, I do not.

Q. Do you know Mr. Slankard? A. Yes, sir.

Q. Is he present now? A. Yes, sir.

Q. Was he at that meeting?

A. I couldn't be positive; he might have been, but I couldn't swear it. There was such a crowd that it is impossible to recall the individuals there so long ago.

Q. You couldn't recall then, the names of the people present at that Sunday meeting?

2349 A. No, sir; I couldn't; I had a friend that I was talking to with me—sat opposite me but I can't even remember his name.

Q. On the 6th the next day after the Sunday meeting, being the date of the meeting at the school house, I wish you would state to what extent, if any, the stores in Hartford were closed?

A. Why, I believe that we all practically closed that day, to my best recollection.

Q. What was the purpose of the closing, as you understood it?

A. Why, the purpose was for the business men and miners in general to proceed to Prairie Creek I suppose and protest against the operation of an open shop mine. I believe that was my understanding of it as near as I can recollect.

Q. State whether or not the business men had any interest in the matter except to aid the union miners carry out their wishes to keep a non-union mine from being opened?

A. Why, it was their wish, so far as I know, to use their sympathy with the miners' union.

Q. State whether or not the larger number of stores there at that time had a larger trade from the miners' union, or the members of it, than from other sources?

A. To the best of my belief they were the main support of the business men of the town.

Q. Do you know how many people went from Hartford over to Prairie Creek on the 6th Monday, 6th of April?

A. No, sir, I don't; there was quite a delegation went.

Q. Did you hear—I am not asking you what you heard at this time—but did you hear what occurred after the people returned from the school house and Prairie Creek mine? I will explain the question a little further. I am not asking you to give an account of any statements made to you, but
2350 I am trying to ask you if you received information—or obtained information after the people returned from Prairie Creek as to what occurred at Prairie Creek during the day?

A. Why, there was speeches made and influence used to induce the men that were there, I suppose the non-union men to quit work.

Q. Did you hear anything about what success they had?

A. I understood that the non-union men decided peaceably with possibly one or two exceptions, to not work there. That was about the information that I understood.

Q. Do you know whether you were talking with any of the union miners in regard to it or not, and if so, state what they said about it?

A. I can't recall any particular instances if I did.

Q. Did you remain in your business as heretofore stated, during the months of April, May, June and July in Hartford?

A. Yes, sir.

Q. Were you in Hartford on July 16th when further trouble occurred over at Prairie Creek? A. Yes, sir.

Q. Were you there on the day and night before that trouble? A. Yes, sir.

Q. State whether or not you saw any persons with guns in Hartford on the day or night before the big trouble on July 17th?

A. No, sir, I don't think I saw anybody with guns at all.

Q. Did you repair any rifles for any strangers about that time?

A. Well, on the 17th, I repaired the injector of a rifle for a stranger; some stranger—two strangers came in there.

Q. Did you know the men at all?

A. No, sir, I did not.

Q. What kind of rifles were they?

2351 A. Well, I can't remember the name of the rifle,—a high powered gun.

Q. What time of the day of the 17th, was it?

A. Well, to my best recollection it was about one or two o'clock somewhere along the middle of the day.

Q. Did you learn from the men where they had been during the day? A. No, sir.

Q. Did you learn where they were going? A. No, sir.

Q. On the night of July 16th, preceding the great trouble on the 17th state whether or not there were any crowds on the streets of Hartford?

A. There was some excitement—some people stirring around that evening, although I wasn't out very much of it, either at home or at my place of business.

Q. What was the excitement about?

A. Well, stories had been circulated in Hartford that Frogtown had been shot up and that some men were coming in from Prairie Creek to shoot up Hartford.

Q. Who circulated those stories as near as you can tell?

A. I couldn't say; general rumor.

Q. They were pretty well circulated were they, in Hartford?

A. Yes, sir, I think they were pretty well circulated.

Q. What did the crowd propose to do with the men that were coming from Prairie Creek to shoot up Hartford?

A. I don't know.

Q. Mr. Tyler, state whether or not the business men at Hartford felt that they should do [any] nothing to antagonize the miners' union, but should so far as possible, comply with the wishes of the miners' union?

2352 A. Well, so far as I was concerned I felt that way, in fact all the business men did.

Q. Did you practically close your store on April 6th?

A. Yes, sir.

Q. Was that your reason for closing? A. Yes, sir.

Q. You were in a town, the larger part of the patronage of which was from the coal miners' union, or members of the union? A. Yes, sir.

Q. And you didn't want to do anything to antagonize that union? A. No, sir.

Q. Was there any non-union coal mine in that community other than the Bache-Denman properties?

A. No, sir; none that I know of.

Q. Did you know of any coal miners living in there and doing work except the union men? A. No, sir; I did not.

Q. Did you see on July 16th, in the afternoon or at night any men with rifles or guns or pistols in Hartford?

A. No, sir; I did not.

Q. Did you see men passing along the street more than usual on that night or that afternoon?

A. Well, I think there was a little more excitement—a little more passing than usual, but not so very much that I noticed.

Q. Did you hear from any of the coal miners' union or any other people there that they were going to make an attack on Prairie Creek? A. No, sir.

Q. Did you hear the shooting over at Prairie Creek?

A. At times I heard some few shots during the day or morning, that is, I supposed it was.

2353 Q. What direction were those shots from Hartford? In other words, were those shots in the direction of Prairie Creek mine, or were they in some other direction?

A. They were in the direcion of Prairie Creek mine.

Q. Could you tell from the shots the kind of guns that were being fired? A. No, sir.

Q. You were not familiar enough with shots to be able to tell that? A. No, sir.

Q. Could you tell whether there were only a few, or whether the number was large? A. I couldn't tell.

Q. Did you see the smoke of the burning tipple at Prairie Creek? A. No, sir.

Q. Did you learn during the day that there had been a battle over there at Prairie Creek?

A. Yes, sir; it was rumored.

Q. From whom did you learn it?

A. Well, I couldn't say in particular; there was rumor over there in town. Mr. Cole, my man that was working for me, went out that way and came back. He said—he told me there was rumors of that but he didn't say much of anything that I know.

Q. Did you on the day of the 17th see Mr. Slankard, one of the defendants, who is present in the room here?

A. I couldn't be positive whether I did or not. I presume if he was there I seen him, but I couldn't say.

Q. You don't remember of having seen him on that day?

A. No, sir.

Q. You knew him well then, didn't you?

A. Yes, sir."

2354 Mr. Warrum (reading):

"Cross-Examination

By Mr. Love Grant:

Q. Mr. Tyler, do you remember the night Frogtown was shot up and the women came into Hartford that night?

A. Yes, sir.

Q. Where were you that night? A. I was at home.

Q. About what time of night did people arrive from Frogtown?

A. I couldn't say as to that. When I got up the next morning there was some people camped to the southeast of my lot kind of in the street by where I lived.

Q. Right near your home in Hartford? A. Yes, sir.

Q. There was a great uproar about the trouble at Frogtown the night before; women and children had driven across there with their night clothes?

A. There was considerable talk.

Q. Did you talk with those people camped near your house? A. No, sir; I did not.

Q. Isn't it a fact that the citizens established guards around Hartford to keep from being attacked by these Prairie Creek people?

A. I understood there was some guards out.

Q. They were out there for that purpose?

A. Yes, sir.

Q. To guard the town against possible attack from these Prairie Creek people? A. Yes, sir."

Mr. McDonough (reading):

"Redirect Examination

By Mr. McDonough:

Q. Mr. Tyler, did you have any apprehension or feel-
2355 ing that any people would come from Prairie Creek to Hartford?

A. No, I didn't have very much apprehension about it."

HANNIBAL GREEN, called as a witness in behalf of the plaintiffs, and having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. What is your full name? A. Hannibal.

Q. Hannibal Green? A. Yes, sir.

Q. Where do you live? A. Jamestown,

Q. Arkansas? A. Yes, sir.

Q. Where did you live in July, 1914?

A. I was living north of South McAlester about six miles.

Q. McAlester, Oklahoma? A. Yes, sir.

Q. Do you remember the date of the battle of July 17th down at Mine No. 4, Prairie Creek?

A. Well, I don't know what time it was.

Q. You remember the incident of the battle?

A. Yes, sir, I know.

Q. Now, if that was on Friday, state whether or not on the Wednesday before that, that is two days before, you heard something over at your home about what was going to happen at Prairie Creek.

A. There was some boys come down, there were three of us down on a little creek, called Coal Creek, fishing.

Q. Come down from where?

A. From Krebs, Oklahoma; that is just a little piece from South McAlester, about seven or eight or ten miles.

Q. Who were those men?

A. I don't know their names.

2356 Q. What was their business down there?

A. They come down there fishing.

Q. What was their business?

A. They were working in a coal mine.

Q. Union mines? A. Yes, sir.

Q. What did you say to them, or they to you?

A. I didn't say anything to them, but along in the evening, about 4:00 o'clock, one of them said to the other, "We had better go on home, we are liable to be called to Prairie Creek any minute, we can't stay out tonight."

Q. What did they say about what they were going to Prairie Creek for?

A. They said there was trouble down there, there was trouble down in Prairie Creek.

Q. Did they go into detail at all as to what the trouble was? A. No, sir.

Q. Or as to what they were going for?

A. No, they never said what they were going for.

Q. What did you do as the result of hearing that?

A. I had some folks down there, and I was afraid, I didn't want them hurt, and I got on the train the next morning and went down there.

Q. Who did you have at Mine No. 4? A. A boy.

Q. And a daughter? A. Yes, sir.

Q. What was the daughter doing there? A. Cooking.

Q. Cooking? A. Yes, sir.

Q. And what was the boy doing?

A. He was working there at the mine, I don't know what he was doing.

Q. Then what did you do?

A. I went to Hartford.

Q. What time did you get to Hartford?

A. Sometime in the evening or afternoon, I don't

2357 know what time it was.

Q. What day was that?

A. The day before they tore up Prairie Creek, the day before the fight.

Q. Was that on Thursday?

A. Yes, sir, Thursday in the afternoon sometime, I got out there.

Q. State what occurred when you got off the train?

A. I started over that way, and some boys there asked me where I was going, and I said I was going to Prairie Creek, and they said I couldn't go, that there was trouble and I couldn't go.

Q. Who said that?

A. I don't know who they was, I didn't know any of them.

Q. There was one man that you knew, was there?

A. No. I stayed around there awhile then, and thought I would go over there anyhow, and I got over a little piece, and a fellow followed me up about half way through town, and said he was financial secretary, and did not want me to go over there.

Q. Financial secretary of what?

A. Of the local there.

Q. Do you know that man?

A. He said, somebody said he was Red Doyle.

Q. What did he look like?

A. Like a man, red haired and sandy mustache.

Q. What did he tell you?

A. He said he was financial secretary there, and there was going to be trouble, and he didn't want me to go there, and he asked where I come from, and I said from Krebs, Oklahoma, and that is all he said to me.

Q. Did you go there?

A. No, I stayed there a little while, and thought I would go anyhow, and I started over there, and got on the railroad, and went up to a path, and turned like I was going to
2358 Prairie Creek, and there were four or five men in the path.

Q. What time was that?

A. About 7:00 o'clock in the evening, just a little before sundown, and they told me I had better not go over that way, that there were liable to be fighting over there, and I would get killed.

Q. Did you go?

A. No, I turned and went back to Hartford. They said I could not go; they said nobody was allowed to go over there.

Cross-Examination

By Mr. Warrum:

Q. Where is Krebs?

A. Well, it is in Oklahoma, not far from South McAlester.

Q. How far from Prairie Creek?

A. I don't know how far it is; about 60 or 70 miles, I would say.

Q. 60 or 70 miles?

A. I don't know how far it is.

Q. Is that your estimate? A. Yes, sir.

Q. How long did it take you to go from Krebs to Prairie Creek?

A. I don't know exactly what time I started; along about noon, or a little after noon. No, it was eleven something.

Q. You started at eleven something?

A. Yes, sir.

Q. What time did you get there, please?

A. It was along about the middle of the evening, I think.

Q. The middle of the evening, did you have to make any changes, or was that a continuous train?

A. No, went right straight through.

Q. Went right straight through? A. Yes, sir.

2359 Q. Now, it was at Krebs that you were living when you heard this conversation?

A. No, I was living six miles north of Old McAlester, out on a little creek called Coal Creek.

Q. When you heard this conversation with the fishermen? A. Yes, sir.

Q. And is that further from Prairie Creek or Krebs?

A. I don't know whether it is any farther from them or not.

Q. How far is McAlester from Prairie Creek?

A. It is a little further than Krebs, six or seven miles, I don't know how far it is out there.

Q. Were you living on a farm? A. Yes, sir.

Q. Farming there, were you? A. Yes, sir.

Q. And there is a little stream running through your farm? A. Yes, sir.

Q. And how many men were fishing there?

A. There were three, I believe.

Q. Do you know the men, did you?

A. No, I didn't know; I had saw them several times out there hunting and fishing.

Q. You had seen them working in a coal mine there?

A. Yes, sir.

Q. You know them to be coal miners?

A. I know they said they were, and I went out to a picnic afterward and saw them there.

Q. Were you sitting on the bank fishing with them?

A. Yes, sir.

Q. All four of you there? A. Yes, sir.

Q. And one of them said they had better get up and go home, they didn't know how soon they were liable to be called to Prairie Creek? A. Yes, sir.

Q. And you got on the train and came to Hartford
2360 on your way to Prairie Creek? A. The next day.

Q. And when you got off at Hartford, were you acquainted at Hartford, by the way? A. Yes, sir.

Q. When you got off at Hartford did you meet any one that you knew? A. No, sir.

Q. As you were walking down the street this man who said he was financial secretary—

A. Yes, sir, there was some fellow asked me, there was a little old restaurant there, and they were all standing there, and they asked me what I was doing, and I said I was going out to Prairie Creek, and they said I couldn't go out, there, had better not go out there, there was liable to be trouble there.

Q. And this man that told you said he was the financial secretary?

A. No, sir, I went on up the street and he followed me up a piece, and told me that, not to go, that he was financial secretary of that local.

Q. And that evening you did stop at about 7:00 o'clock?

A. Yes, sir.

Q. And you went a piece of the way and found some men with guns there?

A. No, sir, they didn't have any guns.

Q. They didn't have any guns, but they warned you you had better not go on?

A. Yes, sir, said I had better not go there; they were just sitting by the side of the road.

(Witness excused.)

2361 JOSEPH A. MCCONNELL, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. Now, Mr. McConnell, will you try to make us all hear, please? What is your full name?

A. Joseph A. McConnell.
Q. Where do you reside? A. Hartford.
Q. What is your business there?
A. I am in the hotel business.
Q. What hotel do you run? A. The Grandview.
Q. How long have you been in that business?
A. 18 years.
Q. You have run the Grandview Hotel for 18 years?
A. No, about 13,—about 14 years, the Grandview.
Q. So you were running that Grandview Hotel in July, 1914? A. Yes, sir.
Q. Where is that hotel situated in Hartford?
A. Right across the track from the Rock Island Depot on Broadway, the corner of Broadway.
Q. Do you remember the night of the day of the big battle there at Prairie Creek? A. Yes, sir.
Q. Several nights before that, did you know Jim McNamara? A. Yes, sir.
Q. Do you know where he worked?
A. He worked at No. 4 Central mine.
Q. He was checkweighman over there? A. I think so.
Q. Several nights before the battle, or within even the night before the battle, or two nights before, did you see McNamara on the streets of Hartford?
A. Well, I seen him there pretty near every day along
2362 about that time. He stopped there at my place a good part for a week or such a matter during that time, before and after.
Q. Do you remember the occasion of his being in your hotel on the night, there, the night before the battle, or two nights before, and using the telephone a good deal?
A. Yes, sir, he was there. He was there using the telephone quite often the day of the battle.
Q. The day of the battle?
A. The morning of the battle.
Q. Now, I want to find out when you mean. The battle occurred, according to the testimony here, it began at four o'clock in the morning of Friday, July 17th?
A. The 17th, yes, sir.
Q. Now, when did he use the telephone a good deal in your hotel?
A. He used the [—] some the day before and the morning of the battle.
Q. You saw him in Hartford the morning of the battle?
A. Yes, sir.
Q. Now, do you remember when it was that he put in a long distance call for Pete Stewart in Fort Smith?

A. I dont recollect what time it was, but I think he phoned Mr. Stewart the evening before, and the next day, too. That is, he called for some one in Ft. Smith. I dont know that he was phoning altogether to Mr. Stewart.

Q. Do you remember him putting in a call?

A. I recollect of one or two calls to Mr. Stewart, but I dont know whether they were all to Mr. Stewart or not, but he phoned quite frequently to Ft. Smith.

Q. You heard him put in a call for Pete Stewart?

A. Yes, sir.

Q. You dont know whether he talked to him or not?

2363 A. No, I don't.

Q. Do you remember that night after the battle over there, McNamara coming to your hotel? A. Yes, sir.

Q. What time did he come there?

A. I think it was about 11:00 or 12:00 o'clock, I won't be sure, exactly, the time, he came in late, though.

Q. Did he say anything to you?

A. I don't recollect whether he did that night or not. I would not be positive.

Q. Did you see him the next morning after you got up?

A. Yes, sir.

Q. What did he tell you as to where he had been?

A. He told me, when I asked him, after that he told me about the trouble that they had over there, shooting up the town.

Q. What did he tell you about it?

A. Well, he said they had shot it up and run the people off that was working there, and had burnt the mines up, that is, the tipple; and the coal cars, I think; and when he left, I think he said, it is my understanding, that there was someone in under the coal cars, or behind the coal cars when they were set afire. I don't recollect now just what he did say about that. I think,—no, they were in the scale pit, I think he said, in place of behind the coal cars; in the scale pit, and they set the coal cars burning over the scales.

Q. Now, the night before the battle, or the night before the day of the battle, what was the general talk on the streets of Hartford?

A. Well, I don't,—it was generally talked there since the 6th, I believe, it was about the 6th of the month, up to the 27th, that there was a good deal of talk about running the miners off from No. 4; general talk all over town.

Q. And was there talk about scabs coming over to Hartford?

2364 A. Well, the evening before the trouble, the big trouble, at Prairie Creek, there was right smart talk

of scabs coming to Hartford that night, and they had quite a number of guards in Hartford that night.

Q. The day after the battle, or the evening of the day of the battle, did you see a bunch of men come in with what they call the scabs?

A. I seen, it seemed to me like two men and a woman and maybe one or two children. I won't be positive about the children, with the mayor, and some other brought down to what was known there as the Bolen Hotel.

Q. Who was the mayor of Hartford? A. John Conroy.

Q. He was one of those that was bringing them in?

A. I didn't see him bringing them in, he was there with them in the hotel when I seen them.

Q. Now, about eight or nine o'clock before the battle, the night before the battle, state what occurred, if anything, that you saw, with reference to any men rushing down the streets?

A. There was about a half a dozen or more that were put out as guards that evening, and just a little bit after dark, I don't recollect just exactly the hour, but I had not gone to bed yet, but some of the guests, had, there was about 15 or 20 ran down the street toward the depot, and hollered, "There goes some scabs," and they run on down about the track, and there were two or three shots fired, and I heard them. I was right at the front door on the sidewalk, and it seemed like they were shooting promiscuously, just any way, and I said to some of them, "You had better be careful, you will kill somebody unexpectedly the first thing you know."

Q. Mr. McConnell, you as a business man of Hartford and a resident there and a property owner there, did you
2365 have any apprehension lest 25 or 30 of the non-union men at Prairie Creek were coming there and going to burn up Hartford?

A. No, sir, I didn't hear anything of it; or didn't feel fearful of anything of the kind.

Cross-Examination

By Mr. Warrum:

Q. Well, there were other business men there that did have that apprehension, were there?

A. I don't know, I never did hear them say.

Q. There were such rumors, did you say?

A. Yes, sir, the report came in that evening that there was a crowd coming over.

Q. Such reports had been circulating before that evening, had they not?

A. I never heard anything of the kind before, until the evening before the riot.

Q. You remember the Sunday before July 17th, do you recollect it? A. July 17th was what day of the week?

Q. That was on Friday? A. Friday.

Q. Now, do you remember whether or not there were women and children came in from Frogtown to Hartford and were taken in by the citizens there, and some of them were camping out, that they claimed had been driven out of Frogtown by these guards at Prairie Creek, or do you recollect that at all?

A. I don't recollect. You think that was the ones that were brought in that I spoke of, the mayor have them in custody?

Q. No, I am talking about the women and children that came in the Sunday before the big battle?

A. No, sir, I never [heerd] of it.

Q. You never heard of it?

A. If I did, I don't recollect.

Q. You remember after that Sunday, and before the
2366 Friday, of the big battle, on Wednesday night, there was a similar experience, women and children coming in from Frogtown into Hartford, did you hear of that?

A. I don't think I ever heard of anyone, only the one time. They may have come in.

Q. That one time was what?

A. That was the time of the riot.

Q. But you never heard of the women and children of Frogtown coming in there with the Prairie Creek women?

A. I don't think I heard of that.

Q. You say the day before they put out a half a dozen guards? A. Yes, sir.

Q. What were those guards for?

A. To keep the people from Prairie Creek shooting up the town.

Q. Who put them out?

A. I don't know who put them out, there was one of the men living in my house, he was a tailor by trade, and he was one of the guards. He was the one that was telling me about it, and he was one of the guards.

Q. How many evenings had they been stationed out?

A. Just the one that I knew of.

Q. Now, you had a phone in your hotel? A. Yes, sir.

Q. And you say that Jim McNamara tried, the evening before July 17th, to put in a long distance call for Pete Stewart?

A. Yes, sir.

Q. You testified to that? A. Yes, sir.

Q. Did he get Mr. Stewart? A. Sir?
Q. Did he get in communication with Stewart?
A. I don't know whether he did or not.
Q. How often did he renew his call?
A. I heard him call some two or three times.
2367 Q. Is it in your office, the telephone?
A. Yes, sir, the local phone is in my office. I believe the local phone is all there was there, since that there is a long distance phone in the hall.
Q. Did they pay in your office for the connections they got?
A. Sir?
Q. Is the payment for a telephone connection made in your office?
A. No, sir, the local phone at that time was restricted.
Q. You heard him, while you were sitting in the office, trying to get this connectioa? A. Yes, sir.
Q. You never heard him talking to Stewart at all?
A. No, sir.
Q. Did you hear him talking to anyone else?
A. No, I never heard him talking to anyone any more than he put the call in.

Redirect Examination

By Mr. Hull:
Q. How old are you, Mr. McConnell?
A. I am 61 years old.

Witness excused.

Mr. Hull: I have had a hard time getting my witnesses here today. I can read some more depositions.

The Court: It is not worth while. We will now stand adjourned until tomorrow morning at 9:30.

2368 Fort Smith, Arkansas.

Saturday, November 3, 1917, 9:30 A. M.

Pursuant to adjournment as last aforesaid, came all of the parties as before on Saturday November 3, 1917, at 9:30 o'clock A. M. and the trial of the case proceeded as follows:

Mr. Drinker: If the Court please, we would like to recall Mike Douthit for the purpose of asking him a question.

The Court: Very well.

MIKE DOUTHIT, recalled as a witness in behalf of the plaintiffs, testified further as follows:

Redirect Examination

By Mr. Hull:

Q. What is your name? A. Mike Douthit

Q. You are the same Mike Douthit that testified yesterday afternoon? A. Yes, sir.

Q. There is just one question, Mr. Douthit, that I neglected to ask you. At the log cabin, when these men came back over toward the battle and where the shooting occurred, did you hear them say anything about what had occurred over at No. 4?

A. Yes, sir, they came back to the cabin, and they told us that they had killed everybody that was over there and set everything on fire. And we didn't know until we got home but that everybody was killed that was left there. They said they set everything on fire; they was talking that around there. And we went on top of this bluff and set on top of that bluff and watched everything burn down there that evening.

2369 Mr. Hull: That is all.

Recross Examination

By Mr. Covington:

Q. Mike, what time in the afternoon was it that shooting occurred on the hillside? A. When they killed these men?

Q. Yes.

A. I think it was about 1:00 o'clock—12:30 or 1:00 o'clock.

Mr. Covington: That is all.

(Witness excused.)

Mr. Hull: If the Court please, we offer in evidence the deposition of Charles L. Reirson taken in New York City on the 18th day of September, 1917, both sides being represented by counsel. (Reading.)

"CHARLES L. REIERSON, called as a witness in behalf of the plaintiffs, being duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. What is your full name, Mr. Reierson?

A. Charles L. Rierson.

Q. Where do you live? A. Bronxville, New York.

Q. What is your present occupation and position?

A. I am Vice President of the Remington-Arms-Union Metallic Cartridge Company.

Q. What position did you hold in the Remington Arms-Union Metallic Cartridge Company in the month of June, 1914? A. General sales manager.

2370 Q. Did you have at that time a factory sales manager by the name of Hill? A. Yes, Harry B. Hill.

Q. What was his territory?

A. A portion of Oklahoma and Western Arkansas, the counties bordering on Oklahoma and that approximate territory.

Q. Have you had the records of your companies searched, at my request, and in compliance with a subpoena served upon you, covering shipments made by your Company in June, 1914, shipped to the State of Arkansas and charged to the account of the Atkinson, Williams Hardware Company of Fort Smith? A. I have.

Q. As General Sales Manager of the Remington Arms Company in 1914, what were your duties relative to the receipt of orders for such shipments and the shipment of goods?

A. I had charge of the Sales Department, which included the sales of all goods in the United States and Canada, and all orders and correspondence pertaining to orders came under my supervision.

Q. I will ask you if the records, orders and correspondence which you have produced here today in response to my subpoena were at that time and have since been under your control and custody?

A. They have been stored since the end of the calendar year 1914 at our Bridgeport Works, at our warehouse there. We always transfer a year's correspondence, orders and so forth to Bridgeport, to make room in our general office for current files and correspondence which came during the following year.

Q. During the whole period since their receipt and since their notation and up to the present time, these records have been under your control?

2371 A. Oh, yes.

Q. I will ask you if you have an independent recollection of these transactions which I have called to your mind?

A. Yes, I remember the transactions.

Q. (Paper shown witness.) I show you a carbon copy of a letter addressed to H. B. Hill, care of Hayden Sporting Goods Company of McAlester, and signed in typewriting "Remington Arms-Union Metallic Cartridge Company", June 10, 1914, and ask to have it marked for identification Reierson Exhibit No. 1 of this date.

(Said paper was marked "For Identification Rierson Exhibit No. 1, September 18, 1917".)

Q. I ask you to state what that paper is?

A. That is an acknowledgment of a telegram received from our representative, Mr. Hill, stating that we had expressed the rifles ordered in his telegram, as directed.

Q. Was that a telegram?

A. Yes, a night letter, it so states on the copy.

Q. I show you another copy telegram dated June 10, addressed to Mr. H. B. Hill, McAlester, Oklahoma, and signed in typewriting "Remington Arms-Union Metallic Cartridge Company", and ask to have it marked for identification Reierson Exhibit 2 of this date.

Said paper was marked "For Identification Reierson Exhibit No. 2, September 18, 1917."

Q. I ask you to state what that is.

A. That is a copy of a telegram sent to our representative, Mr. Hill, advising that we will ship ten rifles, presumably in response to a telegram received from him instructing us to do so. It is not so mentioned there, but I assume that is
2372 what it is because it is our usual mode of procedure in replying to a telegram.

Q. Does this carbon copy of telegram marked Reierson Exhibit No. 2 refer to the same shipment as the night letter which was just introduced?

A. I am unable to say; I have not had sufficient time to look up the original telegrams from Mr. Hill, and therefore I could not tell whether there are two orders or one; these telegrams bear the same date and it is possible they refer to the same order.

Q. Have you asked that a search me made for those incoming telegrams? A. Yes.

Q. Have you as yet been unsuccessful in locating them?

A. Yes, as yet I have.

Q. If your employes or agents are successful in locating a telegram from Mr. Hill to your Company of June 10th, ordering ten auto-loading rifles, will you send it to me at Fort Smith, with a letter explaining what it is? A. Yes.

Q. I show you an order on a thin paper order blank headed "Order for Remington-UMC goods dated June 10, 1914, with the first line caption "Jobber Atkinson Williams Hdw. Co." with the address caption "Ft. Smith, Ark"; the third caption "Ship to Jno. Mastell"; "Shipping point Hartford, Ark."; at the bottom, the notation in writing "This order telegraphed to Company;" and in a space with the caption, Signature of purchaser, the words in writing "Federation of Labor" and in parantheses "Holt". In the space of the caption "Signature of Salesman", "H. B. Hill". And I will ask to have that

marked Reierson Exhibit No. 3 for identification of this date.

2373 Mr. Warrum: The defendants separately move to have the question last read by counsel stricken from the record for the reason that it does not merely refer to the paper handed to the witness after it had been marked by the Notary taking the deposition, but it undertakes to state the contents of the letter by the attorney presenting it; and we want to reserve the right later to offer objection to the introduction of the letter itself.

The Court: Was the question objected to at the time of the taking of the depositions?

Mr. Hull: The objections were reserved at the time of the taking of the depositions, by stipulation, but the question may be stricken out, if objection is made. I describe the paper—I understand the objection to be that I described it too fully.

The Court: Read the question again.

Mr. Hull (reading):

"Q. I show you an order on a thin paper order blank headed "Order for Remington-UMC goods dated June 10, [191r], with the first line caption "Jobber Atkinson Williams Hdw. Co." with the address caption "Ft. Smith, Ark"; the third caption "Ship to Jno. Mastell"; "Shipping point Hartford, Ark."; at the bottom, the notation in writing "This order telegraphed to Company;" and in a space with the caption, Signature of purchaser, the words in writing "Federation of Labor" and in parentheses "Holt". In the space of the caption "Signature of Salesman", "H. B. Hill". And I will ask to have that marked Reierson Exhibit No. 3 for Identification of this date."

The Court: The objection is overruled.

To which ruling of the Court, the defendants, and each
2374 of them, at the time duly excepted and still except.

"Said paper was marked "Reierson Exhibit No. 3 For Identification, September 18, 1917."

Q. I will ask you what that is, Mr. Reierson?
A. That is an order taken by Mr. Hill, our representative, which was to have been invoiced or billed by us to Atkinson-Williams Hardware Company, Fort Smith, and shipped by express direct from our factory to John Mastell, Hartford, Arkansas; and it is evidently the order of one of them received by

the previous copies of telegrams inasmuch as he states that the order was telegraphed to the Company."

Mr. Warrum: The defendants separately move to strike the answer from the record for the reason it is an interpretation of the exhibit by this witness; and in addition to that, because it is a communication between the Remington-UMC Company, or whatever the name of the concern was that this witness represented, and an agent, and is in nowise binding upon these defendants.

The Court: I am not sure that it is competent. I do not quite understand.

Mr. Hull: Our answer to that objection is two-fold. In the first place this witness was the Sales Manager as testified already in his deposition that he had supervision of all orders coming into this company. This was an arder and he has a right to interpret what that order means, that was found in the files of the company. And secondly, as to the objection that this was a communication hetween the Remington Company and its salesman, we take the position that the Remington Company and the salesman were co-conspirators,
2375 as will be shown in this deposition and in following depositions.

The Court: For the present it will be sustained. We will take it up further. If your latter contention is true it is admissable.

Mr. Hull: It cannot all be shown at once.

The Court: You may re-offer it.

"Q. Referring to the notation at the bottom "Signature of purchaser," will you explain what that notation is?
A. We require our salesmen, when taking orders from retail dealers to be shipped through jobbers, to secure the signature of such dealers whereever possible.
Q. Do you know how this signature of the purchaser, "Federation of Labor—Holt" was secured? A. I do not.
Q. Do you know how it happens to be on that order?
A. The signature you mean?"

Mr. Warrum: All of these questions, if your Honor please, are open to the same objection, and while it is a little embarrassing for counsel to repeat the objection, I would like the record to show that we renew the objection to all these questions.

The Court: I assume these questions rather tend to lay a foundation for that question, and that is the ground upon which the objection is sustained, that these are foundation questions, and unless the foundation appears to be sufficient, they will all be entirely immaterial, and incompetent, and may be stricken from the record, but for the present I will hear them.

"Q. Yes?

A. I assume that the order was placed by the signer of the order with Mr. Hill and in conformity with his instruc-
2376 tions to obtain the signature.

Q. And that was the course of business pursued in your office at that time? A. Yes, and still is.

Q. What record would there be in your office as to who the purchaser of that shipment was?

A. None besides this order and Mr. Hill's letter, which we have yet been unable to locate, and the invoice to the Atkinson-Williams Hardware Company; in shipping the goods I think it undoubtedly would be stated that they were shipped direct to this party at the address given on the order and stated in the telegram. Whenever a direct shipment is made it is so stated on the invoice.

Q. Referring again to the signature of the purchaser in the ordinary course of business, would not the name of the purchaser be wired, together with the order, by your salesman, Mr. Hill?

A. In a case of this kind it would necessarily be because it was desired to be shipped direct to that particular party. The order, you will notice, specifies that it is to be shipped to John Mastell, Hartford, Arkansas. The telegram undoubtedly so stated. This order is merely a confirmation of the telegram.

Q. Well, I do not think you quite get my question. I am referring, not to the name of John Mastell, to whom it was shipped directly, but to the signature of the purchaser, which appears there as the "Federation of Labor—Holt." Will you tell me where that came in your records?

A. That would not have been mentioned in the telegam; there was no reason why it should be.

Q. Then will you state why it was put in this order?
2377 A. I presume they were the purchasers; that was the way of giving the order, no doubt, and, in accordance with our requirements, Mr. Hill asked them to put that on the order, as a mark of authenticity."

Mr. Warrum: We would like to ask that that answer be stricken out for the reasons previously given, and secondly,

for the reason that it is a pure assumption on the part of the witness.

The Court: I do not think so.

Mr. Warrum: This was in New York, and they were down here somewhere, and I presume they were the purchasers.

Mr. Hull: That may be stricken out for the present.

The Court: All right.

"Q. And that is Mr. Hill's handwriting?
A. Yes, that is Mr. Hill's handwriting.
Q. And you required your salesmen to secure the signature of the purchaser? A. Yes, whenever possible.
Q. And, if it was not possible, would that name be given and filled in by the agent?
A. Yes—in a case of this kind not necessarily. All that would be put in would be the name of the jobber to whom the goods are to be shipped and invoiced, and the name of the purchaser of the goods, and if the purchaser declines to sign the order, his name would not appear at the bottom because that space is provided only for the signature of the purchaser. Occasionally we find some dealer who is squeamish about signing orders, probably having had a bad experience from signing papers in the past; and we do not always insist upon it, and particularly in this case.
2378 Q. From your knowledge of the [hay] the business was conducted at that time, would you say that must have been the signature of Mr. Holt?"

Mr. Warrum: We object to that.

Mr. Hull: That question and answer will not be pressed.

"Q. These orders are made by the agent at the time of the sale and mailed to your office? A. Yes.
Q. They confirm the telegraphic order? A. They do.
Q. Have you had the records of your office searched so that you can state that this shipment referred to on the order, which is Exhibit 3, was the only shipment made by your Company as of June 10th to John Mastell, at Hartford?
A. No; I have been unable to locate the way-bills covering that shipment, and a search is still being made for them; I do not know whether there was one shipment or two.
Q. (Paper shown to witness.) I show you a copy of a letter dated June 10th, 1914, to H. B. Hill at McAlester, and signed by the Remington Arms-Union Metallic Cartridge Company, and ask that it be marked Reierson Exhibit 4 for identification of this date.

Said paper was marked "For Identification Reierson Exhibit 4, September 18, 1917."

Q. I will ask you to state what this is (Exhibit 4)?
A. That is a copy of a letter written by one of the clerks in our Sales Department—"

Mr. Warrum (interrupting): We interpose a separate objection in behalf of all of the defendants to this, for the reason that the answer shows that it is an attempt
2379 on the part of the witness testifying to state the contents of the exhibit.

Mr. Hull: I will not press the question as to Exhibit 4.

The Court: Very well.

Mr. Hull: My next question is (reading):

"Q. You needn't tell what it says.
A. Ten autoloading rifles.
Q. Was that written under your direction? A. Yes.
Q. Did that refer to this shipment covered by the order blank Exhibit 3?. A. Undoubtedly.
Q. I show you another order slip dated June 10, 1914, billed to Atkinson-Williams Hardware Company, a shipment to John Mastell, Hartford, Arkansas, covering 8 Remington UMC No. 8-A autoloading rifles 25/33, 30/32 and 35 Cal.; two thousand Rem. UMC Ctgs. for above. M. C." and upon it at the bottom appears the notation in writing "This order telephoned to jobber," and the signature of the purchaser is given "Federation of Labor—Holt" and the signature of the salesman is given as H. B. Hill; and I will ask you if that is produced from your original files and if that covers a shipment made by your Company to John Mastell at Hartford?"

Mr. Warrum: The defendants separately renew the objections to the form of the question. They object separately to the form of the question.

The Court: On what ground?

Mr. Warrum: Because it is a paper handed to the witness by the plaintiffs' attorney. It was not marked for identification when it was handed to him.

The Court: Yes, it was.

2380 Mr. Warrum: Later it was, but the question itself is an interpretation of the contents of the paper.

The Court: The objection is overruled. The only question the Court had was whether the witness was in position to answer the question.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

"A. No. That was produced from our office, but it was shipped direct, evidently, by Atkinson-Williams Hardware Company from their own stock at Fort Smith, inasmuch as it states that the order was telephoned to the jobber, the Atkinson-Williams Company being the jobber and Mr. Williams telephoned that order. Every order is confirmed in that manner, whether we ship it or whether the jobber ships it.

Mr. Hull: I ask that that be marked for identification Reierson Exhibit 5 of this date.

Said paper was marked "For Identification Reierson Exhibit 5, September 18, 1917."

Q. That order, Exhibit 5, referred to a different shipment from the one we have discussed under Exhibit No. 3?
A. Undoubtedly.
Q. (Paper shown witness.) I show you a letter on the letterhead of the Remington Arms-Union Metallic Cartridge Company, dated at McAlester, Oklahoma, June 14th, 1914, addressed to the Remington U. M. C. Company, and signed by H. B. Hill, and I ask to have that marked for identification Reierson Exhibit No. 6, of this date.

Said paper was marked "For Identification Reierson Exhibit 6, September 18, 1917."

Mr. Hull: I want to offer in evidence exhibits marked
2381 For Identification 1, 2, 3, 4 and 5, and about which the witness has testified."

Mr. Hull: We offer in evidence exhibits 1, 2, 3, 4 and 5 to said deposition.

Mr. Warrum: At this time, if the Court please, we would like to object to their introduction in evidence here. Of course they had to be attached to the deposition.

The Court: Certainly.

Mr. Warrum: Then defendants separately object to the introduction of these exhibits attached to this deposition and marked Exhibits 1, 2, 3, 4, and 5, for the reason that they are communications passing between this witness as a representative of the Remington Arms Company and their salesman, to

which the defendants in this case are not parties and which would not bind them and which are for that reason incompetent as any declaration or admission or evidence of any character against the defendants.

The Court: Were these objections made in the record?

Mr. Hull: No, the objections were reserved.

The Court: The statute provides what objections shall be made.

Mr. Hull: We have stipulated in most of these depositions that objections as to competency, materiality and relevancy of the testimony shall be reserved.

The Court: What is your statute, Mr. Covington?

Mr. Covington: Our statute provides—that is the practice in this state. We reserve all objections and the right to present them to the Court at the trial of the case.

2382 The Court: You have to make your objections?

Mr. Covington: No, the objections are made at the time of the trial, under the stipulation of counsel.

The Court: I am not disposed to admit that kind of practice as long as I am here no matter what the practice is, unless you have a statute that provides that may be done, and I do not understand you have. Your statute as I remember it,—I looked it up once, but not recently, is practically the usual statute that all objections are waived except those that —except for relevancy and competency, or relevancy or [competncy], which?

Mr. Covington: Relevancy, competency or materiality, and that is the reservation in the stipulation signed by counsel agreed to at the time of the taking of the depositions. That is the well established rule of this Court.

The Court: Is there a written rule of that sort?

Mr. Covington: I do not know that it is a written rule, but it has been followed uniformly without objection.

The Court: I never heard of it anywhere else, and I have been in Court in a great many states and held Court in a good many places, and I never heard of such a rule.

Mr. Warrum: In connection with our objection will the Court permit me now to read the stipulation entered into at the time of the taking of the depositions?

The Court: Yes.

Mr. Warrum: This is found at the beginning of the depositions just after the appearances are shown of Roger B. Hull for the plaintiffs and Webb Covington for the defendants:

"It is further agreed and understood that all exceptions as to materiality, competency and relevancy, to the questions and answers of the witness are saved and may be presented to the court and urged upon the trial of this case."

2383

The Court: Let the record show that up to this time no such stipulation has been called to the attention of the Court, and whatever rulings have been made up to this time have been made in conformity to the law as the Court understands it. I do not want to do anyone an injustice, but I do not think that is the law. You can make a record.

Mr. Hull: I may state, if the Court please, that it is my opinion that this objection does go to the competency of this testimony, and that would be reserved under the statute.

The Court: That is not bothering me with this question, but I am considering other questions.

Mr. Hull: Questions will arise in this very deposition that I think will raise that question as to the form of the exhibits as to whether they have been proven, and I would like to be heard on that as not coming within the stipulation.

The Court: The stipulation really does not add anything to the statute except that you say you claim you do not have to make the objections?

Mr. Warrum: That is all.

The Court: Does that provide that the objections shall not be made, the stipulation?

Mr. Warrum: I do not know what the statute is here, but I do know you only have to present those things in Indiana before the trial, so as to give the other party an opportunity to re-take the deposition.

2384

The Court: I presume in Indiana you have to make the objections at the time of the taking of the depositions?

Mr. Warrum: No, you can make them any time, unless the point urged goes to the whole deposition, then it has to be presented before the trial.

The Court: That is as to the suppression of the depositions, and all rules of court provide a certain period, a certain number of days before the trial that the objection must be made. That is not the question here, but the question here is whether any of the objections can be made to the deposition where it is not made at the time of the taking of the depositions, except for the reasons named in the statute, as to competency and relevancy. I will refer to the statute and look it up. That is the ordinary statute. I looked it up once, but I have forgotten just what the reading of the statute is. Do you know what it is, Mr. McDonough?

Mr. McDonough: I think that is the substance of it, your Honor. It has always been the practice as to competency, relevancy or materiality that we can waive it under the [staute].

The Court: You do not have to waive it. The statute preserves that. But the matter of objections as to form and the laying of foundations and a whole line of things like that, —I do not understand your stipulation even pretends to cover those things.

Mr. McDonough: No.

The Court: I will consider the whole thing. This objection goes to its competency, so that would be within
2385 the statute. But I think we would better iron out the whole thing now so that we can see where we are at.

My understanding now is from what you have said with reference to the stipulation that you have not even pretended there to reserve anything except for competency, relevancy and materiality. Those three objections are all that are reserved by the stipulation.

Mr. Warrum: Yes, your Honor.

Mr. Hull: I think, if your Honor please, we can simplify it by withdrawing the offer at this time and wait until another exhibit is offered and then re-offer it.

The Court: Very well.

Mr. Hull: The offer of exhibits 1, 2, 3, 4, and 5 are for the present withdrawn.

(Reading.)

"Q. I show you Exhibit No. 6 for identification and ask you what that is, without stating its contents, what is that paper?

A. That is a letter from our representative, Mr. Hill.

Q. What is this pencil notation at the top with the name "Reierson"?

A. That indicates that it was received in some other office of our company. My name is merely put on there so that it would reach me.

Q. Did that letter reach you? A. Yes.

Q. Do you remember it? A. Yes.

Q. Is that notation at the bottom of that letter in your handwriting? A. It is.

Q. Which reads, "Mr. Adams, Kindly treat this in strict confidence." Signed "C. L. Reierson"? A. Yes.

2386 Q. I show you a carbon copy of a letter dated June 19, 1914, addressed to H. B. Hill, at McAlester, signed by the Remington Arms-Union Metallic Cartridge Company, and ask that it be marked "Reierson Exhibit 7 For Identification." (Said letter was marked "Reierson Exhibit 7 For Identification, September 18, 1917.") I ask you if this letter, received by you from your agent, Hill and marked Exhibit 6, refers to and relates to the shipment of 10 autoloading rifles covered by the order which is marked Exhibit No. 3?

A. I assume that it does and possibly other orders sold during the same week.

Q. Other orders sold to whom?

A. To the Atkinson-Williams Hardware Company.

Q. And shipped to whom?

A. To John Mastell, Hartford, Arkansas.

Q. I will ask you what this Exhibit 7 is?

A. It is an acknowledgment of Mr. Hill's letter of June 14th.

Q. And a reply to it? A. Yes.

Q. Was that dictated by you?

A. Presumably yes; it was signed by me, at any rate; I sign a good many letters that I do not dictate.

Mr. Hull: I offer in evidence these exhibits 6 and 7 For Identification.

Said papers were marked "In evidence Reierson Exhibits 6 and 7, September 18, 1917."

Mr. Hull: I now offer Exhibits 6 and 7.

Mr. Warrum: The defendants renew their objection to these exhibits offered for the reasons given heretofore to the offer of Exhibits 1, 2, 3, 4 and 5.

The Court: The objection is overruled.

To which ruling of the Court, the defendants, and each
2387 of them, at the time duly excepted and still except.

Mr. Hull: I will read these letters to the jury. One is a letter on the letter-head of the Remington Arms-Union Metallic Cartridge Company, dated McAlester, Oklahoma, June 19, 1914, and signed H. B. Hill.

(Reading.)

"Rem. -U. M. C. Co.,
299 Broadway,
New York, N. Y.

Gentlemen:

You will notice on my expense account for this week that I have entered entertainment expense while at headquarters on Wed. and Saturday but this expense was absolutely necessary inasmuch as I was compelled to entertain the superintendent of the Federation of Labor of this district. The Auto. Rifles sold this week were for the Federation of Labor and this transaction must be kept absolutely secret as in case these operators in this coal field were to find that I had sold rifles to the miners they would cut me off their list when it came time to stock their stores.

It is only a question of time until this section will be under martial law and would suggest that you acknowledge receipt of no orders in this territory for at least sixty days. Will see that both sides are supplied with Rem.-U. M. C. products but do not want to be caught in the deal.

Yours very truly,
H. B. HILL."

Mr. Hull: And the signature over to the left appears in Mr. Riereson's handwriting as testified by him the following.

2388 "(Mr. Adams—Kindly treat this in strict confidence.
C. L. REIERSON.)"

Mr. Hull: I was reading from Exhibit No. 6. I will now read in evidence Exhibit No. 7. It is a carbon copy of a letter which Mr. Reierson testified that he signed.

Mr. Warrum: The defendants separately object to the introduction in evidence of the Reierson Exhibit No. 7, being a letter dated June 19, 1914, written by the Remington Arms-

Union Metallic Cartridge Company to H. B. Hill, their agent at McAlester, Ark.

The Court: Was this offer included in the other offer?

Mr. Hull: Yes. They were offered together. Exhibit 6 and 7 were offered together and were ruled on.

(Reading.)

"June 19, 1914.

"Mr. H. B. Hull,
Hayden Sporting Goods Co.,
McAlester, Ark.

Dear Sir:

We acknowledge your letter of June 14th in regard to Autoloading Rifles sold for the use of the American Federation of Labor. We were just about to write you in reference to this matter when we received your night letter yesterday morning ordering ten rifles Model #14 and a quantity of ammunition for same. Realizing the great danger of your being too active in matters of this kind, we at once sent you a day letter instructing you to discontinue such activity, and later in the day received your telegram advising that these matters had been handled through the salesmen representing
2389 the jobbers. This reassures us and makes us feel better.

Your letter of the 14th indicates that you apparently realize the risk of antagonizing the operators in the local field. It would be a serious matter if this should come about. We appreciate your anxiety for business and are just as anxious to have business as we ever were, at the same time we do not think it wise to run serious risks to get it.

There is another side to the matter. We cannot afford to antagonize the Federation of Labor. Such antagonism might extend to the point of having these people black list our goods. This might very easily extend to other labor organizations and would be a very serious affair for us. Moreover, we are large employers of labor ourselves and are very careful in matters of this kind not to give organized labor an opportunity to criticise us.

It is a different matter for a jobber's salesman to be active in a case of this kind as the jobber has not so much at stake. Moreover, it is difficult at times to connect a jobber with matters of this kind where as there is no escape for us. The jobber handles all lines of goods while we have only our one line to depend upon.

We hope you will continue to use the greatest discretion in this matter and that you will not permit yourself or us to be known in conection with the transactions that have already taken place.

We have your telegram this morning ordering some 45/70 cartridges and same will be given prompt attention.

Yours very truly,

REMINGTON ARMS UNION
METALLIC CARTRIDGE CO.

C. E. REIERSON.
CLR/FEW" General Sales Manager.

2390 Mr. Hull: We now offer, after the introduction of Exhibts 6 and 7, Exhibits 1 to 5, previously identified by this witness.

Mr. Warrum: To which offer the defendants separately object for the reason that the exhibits offered are transactions occurring between the company and their agent and in no wise binding upon these defendants.

The Court: The objection is overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Mr. Hull (reading):

"Q. To expedite things a little I will show you two order blanks, both dated June 17, 1914, and both billed to the Atkinson-Williams Hardware Company, the one which is to be shipped to Oscar Layton I will ask to have marked Reierson Exhibit 8 of this date. (Said paper was marked "For Identification Reierson Exhibit 8, September 18, 1917.") And the one which is to be shipped to John Mastell I will ask to have marked Reierson Exhibit 9 for identification. (Said paper was marked "For Identification Reirson Exhibit 9; September 18, 1917.") Referring first, to Exhibit 8, I will ask you what that is?

A. That is a copy of an order sold on June 17, 1914 by Mr. Hill for account of the Atkinson-Williams Hardware Company, to be shipped to Oscar Layton, Hartford, Arkansas, the shipment to go from the jobber's stock.

Q. Are you quite sure that that was shipped from Fort Smith?

A. The order would indicate that to be the case. The only change in it that I could see would be the case of the Atkinson-Williams Hardware Company not having the goods in

stock, in which event they might have instructed us by
2391 telegraph or mail to ship them direct for their account.

Q. Referring to Exhibit 9, will you state what that is?

A. That is a copy of an order taken June 17, 1914, by Mr. Hill for account of the Atkinson-Wililams Hardware Company, to be shipped by express to John Mastell, Hartford, Arkansas, presumably from their stock. We always assume that an order goes from the jobber's stock unless it is specifically instructed otherwise.

Q. If the express records show that any or all of these shipments covered by Exhibits 8 and actually were sent either from your Bridgeport factory or from New York City, how would you account for that, in view of your statement that you have just made that they were shipped from the jobber's stock?

A. I may state first that neither of those orders entirely would be shipped from Bridgeport, because those arms are manufactured at Ilion, New York, and would be shipped, if shipped by us, from Ilion, Or from our warehouse in New York. Bridgeport, Connecticut, at that time was only a cartridge manufactory. That would account for such shipment, if made by us, from either Ilion or New York City, by the fact that the jobber had not the goods in stock, which frequently happens, and he instructed us, either by mail or by wire, of the shipment for this account.

Mr. Hull: I offer these Exhibits 8 and 9 in evidence."

Mr. Hull: I now offer in evidence Exhibits 8 and 9 in the deposition.

Mr. Warrum: To which the defendants separately object for the reasons given heretofore.

The Court: The objection is overruled.

2392 To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Mr. Hull (reading):

"Said exhibits were marked "In evidence Reirson Exhibits 8 and 9, September 18, 1917.")

Q. (Paper shown witness) I show you a telegram dated McAlester, June 18, 1914, addressed to the Remington Arms-Union Metallic Cartridge Company, New York City, and signed "H. B. Hill" and I ask that it be marked for identification Reierson Exhibit 10 of this date. (Said paper was marked "Reierson Exhibit For Identification 10, September 18, 1917.") Will you tell us what that is?

A. That is a telegram from our representative, Mr. Hill.
Q. Did that refer to this same shipment?
A. I assume that that telegram was sent in response to a letter written to Mr. Hill in connection with the shipments we have been discussing.

A. I show you a copy of a day letter, dated June 18, 1914, to Mr. H. B. Hill, signed "Remington Arms-Union Metallic Cartridge Co., C. L. Reierson, General Sales Manager" and I ask that that be marked Reirson Exhibit 11 for identification. (Said paper was marked "For Identification Reierson Exhibit 11, September 18, 1917.") I will ask you what that is?
A. That is a copy of a telegram sent by our office to Mr. Hill, our salesman.
Q. Was that dictated by you? A. Yes.
Q. Would you say, then, reading that Exhibit No. 10, that Exhibit No. 10 is a reply to your telegram, which is identified as Exhibit No. 11?

A. No; I rather think the copy of the telegram mark-
2393 ed Exhibit 11 would refer more particularly to the receipt by telegram of an order for model fourteen rifles and ammunition for them.

Q. That is as to Exhibit 11? A. Yes.
Q. Your telegram? A. Yes.
Q. My question was, Mr. Reierson, whether you would say that Exhibit 10, Mr. Hill's wire to you was a reply to Exhibit 11, your wire to him?
A. Very likely. This was a day letter and would have possibly reached Mr. Hill in time for him to have answered it on the same day by this telegram marked Exhibit 10.
Q. You have an independent recollection of these transactions, have you not, Mr. Reierson?
A. Yes, but it is more or less vague as to small details, inasmuch as three years have passed.

Mr. Hull: I offer exhibits marked for Identification 10 and 11 in evidence."

Mr. Hull: The plaintiffs now offer in evidence said exhibits 10 and 11.

Mr. Warrum: The defendants separately renew their objection to these offers for the reasons previously given.

The Court: The objection is overruled.

To which ruling of the Court the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull: I want to read Exhibit No. 10 to the jury which is t telegram from H. B. Hill to the Remington Arms Company dated June 18, 1914, 2:10 p. m. (Reading.)

"McAlester, Okla. June 18-14 210p

To Remington Arms Union Metallic Cartridge Co.,
299 Bway, NYC.

2394 Have used proper precaution all previous matters through Jobbers salesman.

H. B. HILL."

Mr. Hull: I also want to read to the jury Exhibit No. 11, which is as follows: (Reading.)

"New York, June 18, 1914.

Mr. H. B. Hill,
Hayden Sporting Goods Co.,
McAlester, Okla.

Telegraphic order model fourteen rifles and ammunition received. You are in great danger of compromising us with other faction which would be serious matter. Therefore must instruct you to discontinue personal activities in matter. Of course we will fill without question orders received from jobbers but think best to let jobbers' salesmen handle matter as do not feel it wise for you as our representative to be known in connection with it. Therefore must instruct you govern yourself accordingly. Writing fully.

REMINGTON ARMS-UNION
METALLIC CARTRIDGE CO.

C. L. REIERSON,
General Sales Manager.

Day letter.
CLR/FEW"

Mr. Hull (reading):

"Q. The goods covered by these documents and these shipments covered by these orders, referred to in these letters and telegrams, as I understand it, were all paid for by Atkinson-Williams Hardware Company? A. Yes.

Q. You received no pay from the purchasers? A. No.

Q. You billed them to the Atkinson-Williams Hardware Company in the usual course of your business?

A. Yes.

2395 Mr. Hull: I think that is all."

The Court: What was the name of this witness?

Mr. Hull: C. L. Reierson.

Mr. Drinker: You have read only Exhibits 6, 7, 10 and 11.

Mr. Hull: I want to read to the jury Exhibit 1 which is a copy of a night letter dated June 10, 1914 to H. B. Hill from the Remington Arms-Union Metallic Cartridge Company as follows: (Reading.)

"June 10, 1914.

H. B. Hill,
c/o Hayden Sporting Goods Co.,
McAlester, Okla.

Telegram received Expressing today auto rifles to John Mastell Hartford Arkansas.

REMINGTON ARMS-UNION
METALLIC CARTRIDGE CO.

Night Letter
GEP-P"

Mr. Hull: I want to read Exhibit No. 2, which is a carbon copy of a telegram dated June 10, 1914 as follows: (Reading.)

"New York, N. Y.
June 10, 1914.

Mr. H. B. Hill,
c/o Hayden Sporting Goods Co.,
McAlester, Okla.

Will ship at once ten Autoloading rifles twenty-five calibre.

REMINGTON ARMS-UNION
METALLIC CARTRIDGE CO.

AFH/FEW"

2396 Mr. Hull: I want to read Exhibit No. 3, which is on an order blank of the Remington U. M. C. Company, dated June 10, 1914 as follows: (Reading.)

"Jobber Atkinson William Hdw. Co.,
Address Ft. Smith, Ark.
Ship to Jno. Mastill.
Shipping point Hartford, Ark.
How) when)
ship) Express from factory ship) At once.

Quantity	Items	Price
10	Rem. UMC No. 8 A Auto Rifles 25-35-Cal.	

This order telegraphed to Company.

Please ship the above goods as specified do not substitute. If goods are not in stock please order from the Remington-U. M. C. Co., 299 Broadway, N. Y.

This order is subject to acceptance of Jobber named.

Signature of Purchaser) Federal of Labor. (Holt).

Signature of Salesman) H. B. Hill."

Mr. Hull: I want to read Exhibit No. 4, being letter from the Remington Company to H. B. Hill, dated June 10, 1914. as follows: (reading.)

"Mr. H. B. Hill,
c/o Hayden Sporting Goods Co.,
McAlester, Okla.

Dear Sir:

We received your telegram of even date requesting us to ship by express to John Mastell, Hartford, Ark., ten #8A Auto loading Rifles, 25 calibre, charging same to the a/c of Atkinson-Williams Hdw. Co., Ft. Smith, Ark., and in compliance with your wishes, we wired you today as follows:

"Telegram received. Expressing today auto.
2397 rifles to John Mastell, Hartford, Ark."

Thanking you for this order, and trusting that the rifles will reach your customer promptly, we are

Yours truly,

REMINGTON ARMS-UNION METALLIC CARTRIDGE CO.

Per

GEP-P".

Mr. Hull: I now want to read Exhibit No. 5 on the order blank of the Remington U. M. C. Company dated June 10. 1914 as follows: (Reading.)

"Jobber Atkinson William Hdw. Co.
Address Ft. Smith, Ark.
Ship to Jno. Mastell
Shipping point Hartford, Ark.

How ship) Express when ship) At once.

Quantity Items. Price.

8 Rem. U. M. C. Co. No. 8A Auto Rifles
25-35-30-32 and 35 Cal.
2 M Rem. U. M. C. Ct. go for above. M. C.

This order telephoned to jobber.

Please ship the above goods as specified. Do Not Substitute. If goods are not in stock please order from the Remington U. M. C. Co. 299 Broadway, N. Y.

This order is subject to acceptance of Jobber named.

Signature of Purchaser) Federation of Labor. Holt.

Signature of Salesman) H. B. Hill."

Mr. Hull: I now want to read Exhibit No. 8, which is on an order blank of the Remington U. M. C. Company dated June 17, 1914. (Reading.)

2398 "Date June 17th, 1914.

Jobber Atkinson Williams Hdw. Co.
Address Ft. Smith, Ark.
Ship to Oscar Layton
Shipping point Hartford, Ark.

How ship) Express when ship) At once.

Quantity	Items.	Price.
10	Rem. U. M. C. No. 14A Rep. Rifles 25 Cal.	
3 M	" " " " " Ctgs. 25 Rem. Auto M. C.	
1 M	" " " " " " 30 " " "	
½ M	" " " " " " 35 " " "	
1/5 M	" " " " " " 32 " " "	

* This order given to H. E. Morgan.

Please ship the above goods as specified. Do Not Substitute. If goods are not in stock please order from the Remington-U. M. C. Co. 299 Broadway, N. Y.

This order is subject to acceptance of Jobber named.

Signature Purchaser) Oscar Layton

Signature of Salesman) H. B. Hill."

Mr. Hull: I want to read Exhibit No. 9 on order blank of Remington U. M. C. Company as follows: Reading.

"Dated June 17th, 1914.

Jobber Atkinson Williams Hdw. Co.
Address Ft. Smith, Ark.
Ship to John Mastell.
Shipping point Hartford, Ark.

How) ship) Express — when) ship) At once.

	Quantity	Items	Price.
2399	4	Rem. U. M. C. No. 8A Auto Rifles 30 cal.	
	4/5 M.	" " Ctgs. 30 Rem.—M. C.	
	1 M	" " " 45-70 Springfield M. C.	

This order given to H. E. Morgan.

Please ship the above goods as specified. Do Not Substitute. If goods are not in stock please order from the Remington-U. M. C. Co. 299 Broadway, N. Y.

This order is subject to acceptance of Jobber named.

Signature of Purchaser) J. Mastell.

Signature of Salesman) H. B. Hill."

Mr. Hull: I have read all of the exhibits.

The Court: Before you proceed further, the Court wishes to take up the question of the stipulation in the deposition. The statute, Section 3191 provides:

"No exception, other than to the competency of the witness or to the relevancy or competency of the testimony, shall be regarded, unless filed in the record before the commencement of the trial."

You therefore note the question of the relevancy or competency of testimony is preserved by the statute. Your stipulation does nothing more than adds weight to that provision of the statute. I am of the opinion that you are bound by the statute. Your stipulation provides that such objection maybe reserved, but not in the manner provided by statute. It may not be necessary for the Court to pass directly on it.

Mr. Warrum: (Reading.)

"Q. Where is Mr. Hill now?

A. The last account I had of Mr. Hill, he was in Oklahoma City.

2400 Q. How long did he remain with you after June 15, 1914?

A. I cannot answer that definitely, Senator, but my recollection is approximately a year.

Q. Possibly a year? A. Yes.

Q. Then, of your own knowledge, you do not pretend to say that the orders and other exhibits, outside of the telegram and letter which you identified as being your own, you do not pretend to say that they are correct, do you?

A. Yes, I think they are, because I received those orders personally. All mail of that nature came to my desk at that time when I occupied that position, and was handled by me.

Q. But you do not mean to testify that your agent made out the bills actually do you?

A. The orders, do you mean?

Q. Yes?

A. I know nothing except what appears on their face.

Q. The telegrams and letters here produced by you and offered in evidence by counsel for the plaintiffs, appear to be marked copies, that is they appear to be copies of the originals; who made these copies?

A. One of our stenographers.

Q. When? A. On the dates which appear on them.

Q. Where are the originals?

A. Presumably they are in the possession of the people to whom they were addressed if they have not since been destroyed.

Q. Where are the originals of the letters written to you by your agent, H. B. Hill?

A. There is one of them.

Mr. Hull: Referring to what?

The Witness: Letter dated June 14, 1914, marked
2401 Exhibit 6.

Q. Where are the others?

A. So far as I know there were no others concerning those transactions; the correspondence seemingly, was carried on chiefly by telegraph.

Q. Exhibit 1 seems to be a copy of a telegram to H. B. Hill from the Remington Arms Company, dated June 10, 1914, marked on the bottom "Night letter—GEP-P"; you did not send that, did you? A. I did not.

Q. Exhibit No. 2 appears to be a copy of a telegram sent to H. B. Hill by the Remington Arms Company; you did not send that, did you? A. I did not.

Q. Exhibit No. 4 appears to be a copy of a letter sent to H. B. Hill, your agent, at McAlester, Oklahoma, June 10, 1914; you did not send that letter either, did you?

A. No.

Q. I see from Exhibit No. 7, which is a copy of a letter purporting to have been written on June 19, 1914, and you were asked by Mr. Hull if the telegram of June 18, 1914, was not in response to this letter—that would be impossible, would it not?"

Mr. Hull: Please read my objection.

Mr. Warrum (reading):

"Mr. Hull: I object to the question because it assumes something which is not in the record, and counsel is confused as to the question.

Q. Is that possible? A. No.

Q. Exhibit 6 of your deposition, introduced by counsel, purports to be a letter signed on the typewriter "H. B. Hill". Do you know who wrote that letter?

2402

A. I believe Mr. Hill wrote it.

Q. Do you know whether he did or did not?

A. I do not.

Q. Referring to Exhibit No. 9, to whom would the matter for your pay be referred?

A. To the Atkinson-Williams Hardware Company.

Q. Referring to Exhibit No. 8, to whom did you sell that stuff?

A. To the Atkinson-Williams Hardware Company.

Q. Referring to Exhibit No. 3, to whom did you sell that stuff?

A. To the Atkinson-Williams Hardware Company.

Q. Referring to Exhibit No. 5, to whom were the goods shown by that bill sold?

A. To the Atkinson-Williams Hardware Company.

Q. Now, Mr. Reierson, is it not a fact that all the goods sold by you, as shown by each of the exhibits produced by you and introduced by counsel, were sold to the Atkinson-Williams Hardware Company? A. Yes.

Q. What was the occasion of Mr. Hill leaving your company?

A. That I don't remember for the reason that I had given up active charge of the Sales Department at the time Mr.

Hill left us, and the matter was handled by my successor; I am not familiar with it.

Q. When did you cease to manage or direct the Sales Department?

A. I think it was in the summer of 1915, in the summer or fall of 1915.

Q. I see on the bottom of Exhibits 5 and 3 the words "Federation of Labor." Do you know what the Federation of Labor was? A. I do not.

Q. I also notice the word "Holt", which appears to
2403 be H-o-l-t. Do you know who that is?

A. I do not.

Q. Along about the time that these orders were being filled, and before, your Company had been shipping a great many arms to Arkansas that were not to the Atkinson-Williams Hardware Company, isn't that so? A. Yes.

Q. Did you deal with the Speer Hardware Company of Fort Smith, Arkansas? A. No.

Q. Your jobber was the Atkinson-Williams Hardware Company at Fort Smith? A. Yes, sir.

Q. What territory did their rights as jobbers cover?

A. That was limited only by their ability to secure business, Senator; they had the wide world so far as we were concerned.

Q. Why was it, then, that you required your salesman to place all the orders that the jobbers should receive?

A. I recall that all over the United States we did not sell to the retail trade direct at all; our business is altogether with the jobbers.

Q. Strictly?

A. Strictly, yes. That applies to every section of the country.

Q. You no not know why Mr. Hill wrote in this order here "Federation of Labor", do you? A. No.

Q. You do not know why he wrote the word "Holt", there, do you? A. No.

Q. Who is H. E. Morgan?

A. My opinion is that he is a salesman representing Atkinson-Williams Company in that territory.

Q. Exhibit No. 8 shows that the order was turned in to H. E. Morgan to be filled; you don't know who H. E. Morgan is?

A. I am almost positive that he is a representative of Atkinson-Williams, and, if I may explain, I will tell you
2404 why I feel that way.

Q. Yes.

A. It is our instructions to all our salesmen that when an order is placed with them by a retail dealer, that the order shall be turned over, if possible, without loss of time, to the salesman representing that particular jobber in that section, because it wins the great favor of that particular salesman, for our goods to have this order handed to him as a compliment; and that was following our usual procedure.

Q. You have no jobber in that particular section of the country, outside of the Atkinson-Williams Hardware Company, have you? A. Yes.

Q. Who? A. We have a jobber at Muskogee, Oklahoma.

Q. You mean in the territory of Western Arkansas?

A. No, nearer than Little Rock.

Q. Who is your jobber at Little Rock?

A. We have several, Fones Bros. Hardware Company, J. L. Lloyd Company and one other whose name I do not recall.

Q. Then, H. E. Morgan was not a jobber—you are certain of that? A. Oh, yes; we have no jobber of that name.

Q. I believe you stated, Mr. Reierson, in your direct examination, that all goods shipped to the Atkinson-Williams Hardware Company were paid for by them, but you received no checks in payment from any outsider or retail dealer?

A. I do not know that such is the case, but I cannot imagine that to be, because we billed the goods to the Atkinson-Williams Hardware Company, in any of those transactions, and therefore we would look only to them for our pay.

Q. Who is your salesman in the territory of Arkansas and Oklahoma, at present, if you know?

2405 A. Mr. Clyde B. Wells.

Q. Where is he located? A. At Little Rock.

Q. You say that these records produced here by you and introduced by counsel have been in Bridgeport, [Connecituc], since 1914?

A. 1915,—I think they would be sent up there at the end of the year.

Q. And you sent them there at the end of the year 1914 or at the beginning of 1915?

A. Yes, as soon thereafter as they can conveniently be gotten together and removed.

Q. Did you have anything to do with taking these orders and handing them over there? A. No.

Q. Did you have anything to do with them after they were transferred to that place? A. No.

Q. Did you have anything to do with gathering them up and [and] sending them to New York for this special attention? A. I directed that to be done.

Q. You directed then, but you were not present?

A. I dont' know anything about it.
Q. All you know about the records here is that they were shipped to you by express from Bridgeport? A. Yes.

Mr. Covington: I think that is all:"

Mr. Hull: I want to read the omitted portion of cross-examination as follows: (Reading.)

"Cross-Examination

By Mr. Covington:

Q. Mr. Reierson, have you had occasion to examine your records before this time in reference to this matter?

A. Yes.

2406 Q. Was that in the year 1914?

A. I am unable to state definitely, Senator.

Q. Did Mr. Hull come to you on that occasion and investigate to see if the goods had been shipped to certain parties by your Company? A. I don't think so.

Q. Did you get acquainted with Mr. Hull during the summer or fall of 1914, when he was associated with the United States Attorney General's office, and particularly directing his investigation of the trouble in Arkansas between the miners and the operators?

A. I don't remember who it was that I dealt with in that investigation.

Q. By way of refreshing your memory, is it not a fact that he, in company with a secret service agent of the Government, came to your place of business to investigate the matter, and got some matters we have here?

A. A secret service agent did; whether Mr. Hull occompanied him, I do not remember.

Q. Do you keep the books of your company?

A. I do not.

Q. Do you answer all correspondence received by your company? A. I do not.

Q. Out of all the exhibits here produced by you and offered in evidence by counsel for the plaintiffs, you find only one letter that you dictated, I believe? A. Yes, I think so.

Q. Outside of that you had nothing to do with the preparation of any telegram or the receipt of any of the orders which are marked as exhibits to your testimony, did you?

A. I think there is a telegram sent by me also, Senator.

2407 Q. A telegram?

A. That bears my initials, indicating that I dictated it.

Q. Bearing the date of June 18, 1914? A. Yes.

having dictated that telegram, have you?

Q. You have no distinct or independent recollection of having dictated that telegram, have you?

A. Yes, I remember that I dictated that telegram.

Q. That assumes to be addressed to your Sales Agent, Mr. H. B. Hill? A. Yes."

Mr. Hull: I think that is where he began reading. I will now read the redirect examination. (Reading.)

"Redirect Examination

By Mr. Hull:

Q. What is the name of your jobber in Muskogee?

A. We have one called the Muskogee Wholesale Grocery Company and the Hooker-Hendricks Hardware Company.

Q. Were they your jobbers in 1914?

A. Yes, both of them.

Q. Is it not a fact, Mr. Reierson, that on your direct examination I asked you whether or not in your opinion this Exhibit 10, the wire from Mr. Hill to your Company of June 18th, was not an answer to your day letter to him of the same date? A. Yes.

Q. And you stated that your day letter of June 18th might have gotten there in time for this to have been an answer?

A. Yes.

Q. I show you Exhibits 4 and 1, which purport to be carbons of communications from your office to Mr. Hill, with the initials "GEP" as the dictator and "P" as the stenographer, and I will ask you whose they are?

A. "GEP" is George E. Pinkney.

2408 Q. Where is he at present?

A. In our office, 233 Broadway.

Q. Who is he? A. A clerk in the order department.

Q. Do you know who the stenographer was who signed herself "P"? A. I think she is Miss Pool.

Q. Is she still with you? A. Yes.

Q. I show you Exhibit 7, being carbon copy of a letter of June 19th, dictated by you, with the stenographer's initials "F. E. W."; will you state who "F. E. W" is?

A. Miss F. E. Wildrick.

Q. Is she still with you?

A. Yes—at the present time she is in a hospital.

Mr. Hull: Senator Covington, if you question the technical form of the proof of these documents I have just referred to, I shall ask for an adjournment of the depositions until we can get these employes and officials here, and make a technical proof. I offer these documents in evidence with the testimony of this witness; won't you state now whether you object to the technical form of the proof?

Mr. Covington: I am not representing the plaintiffs in this action.

Mr. Hull: I want the record to show that if the objection to these documents just referred to is upon the ground that they are not technically proven as to the authenticity of the carbon copies, that I request Senator Covington to state that fact, in order that I may, while we are in New York, secure that technical proof; have you anything to say on that, Senator Covington?

Mr. Covington: At the outset we agreed that all ex-
2409 ceptions as to the competency, relevancy and materiality of the testimony be reserved, and any and all objections thereto being reserved to the trial of this case before the Court. I am not conducting the side of the plaintiffs, this being a matter entirely with counsel who appears here for them.

Q. I ask you if you know who, in 1915, in your office, put these papers in a bundle and sent them to Bridgeport?
A. No, I do not.
Q. Could that fact be ascertained from your books?
A. I think so.
Q. Could it also be ascertained who shipped them to Bridgeport and who received them? A. Yes.
Q. And who got them out down there last week, upon your request? A. Yes.

Mr. Hull: I want to state for the record that if the objection to these documents introduced by this witness goes to the form [ot] the technical proof to questions as to the authenticity of documents and their whereabouts since 1914, and their delivery to New York, for the purposes of this deposition, I wish Senator Covington to so state in order that I may make that technical objection upon an adjournment of this deposition, while we are still in New York; have you anything to say, Senator Covington?

Mr. Covington: Mr. Hull is here representing the plaintiffs; they are trusting him with their case, and he must be satisfied himself. I have no suggestion to offer as to the method of procedure upon his part.

Q. So far as you know, Mr. Reierson, I have never seen you before yesterday morning? A. No.
2410 Q. So far as you know, I have never been inside of the Remington's offices before that?
A. Not to my knowledge.

Q. So far as you know, I have never seen these exhibits that have been offered here today until this morning when you showed them to me? A. No.

Q. Do you know whether they were ever in the possession of a secret service representative?

A. I think some of them were shown to a representative of the secret service, but which they were I could not say.

Q. Do you know whether he took them away with him?

A. I do not remember.

Q. You do not remember that they were ever taken out of your office, do you?

A. No, I do not. I merely remember in a general way that a secret service official came to us for certain information on this matter and that we showed him what we had in our office.

Mr. Hull: Certainly.

The signature of the witness is waived."

Mr. Warrum: If the Court please, in view of the further testimony of this witness, as to the sale being made to the Atkinson-Williams Hardware Company, and for the reasons previously given, at the time of the introduction in evidence of the invoices orders and letters, the defendants separately move to strike from the record the exhibits, and each of them, introduced in connection with the deposition of this witness Rierson.

The Court: The motion is denied. The attention of counsel is called to this fact, that on examination of your stipulation the Court finds it simply reserves exceptions; in
2411 other words, you waive the necessity for making the record when you are taking the depositions, but your stipulation does not pretend to change the rule of law in this state under the statute that those objections shall be presented to the court before the trial. There is nothing before the Court on these exhibits, as to their relevancy and competency, as provided by the statute. The motion is denied.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted and still except.

2412 Mr. Hull: We next offer the deposition of W. J. Clinton,—

Mr. Warrum: Before that is done, as I stated to your Honor in chambers, and to counsel for the plaintiffs, a situation exists in this country that everybody is familiar with, a state of war exists, and the government has seen fit in its wisdom to commandeer a certain class of men in different walks of

life, and among them are officers of the Unitel Mine Workers, and Mr. John P. White, who has just come in the court room, in answer to an urgent insistence on our part that he would come whenever he could get here, and who was former President of the United Mine Workers, and is now an assistant to John W. Garfield. I have not been able to talk to him, but they have a conference next week, and week after that, and I assume that the court will take judicial knowledge of the importance of the government affairs.

The Court: You need not dwell on that, just the necessity of it.

Mr. Warrum: We would like to have a chance to talk to him before putting him on the stand, and would like to have a short session this afternoon.

The Court: I am sorry to say that the court's word is out on a session this afternoon. One of the jurors has a very sick wife, and I promised him that he could go home this afternoon. If he can go on the stand now, I will stop the proceedings on the part of the plaintiffs.

Mr. Hull: We waive all of that.

Mr. Warrum: You will allow us to talk to him ten or fifteen minutes before?

2413 The Court: Oh, yes; his deposition is on file.

Mr. Warrum: I will try to curtail my cross-examination, and not extend beyond the deposition.

The Court: Did you rcoss-examine him in the deposition?

Mr. Warrum: He was only asked two or three questions.

The Court: I remember now.

Mr. Warrum: We did cross-examine Mr. Green.

The Court: It was Mr. Green I was thinking about. Gentlemen, it is nearly time for our usual adjournment, and instead of five minutes, we will take ten; or better, be in call of the bailiff when he calls you.

(A recess was here taken of ten minutes.)

(Testimony for Defendants.)

Mr. Warrum: Mr. John P. White will please take the witness stand.

JOHN P. WHITE, called as a witness on behalf of the defendant, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Warrum:

Q. State your name to the court and jury?
A. John P. White.
Q. Where were you born, Mr. White?
A. Coal Valley, Illinois.
Q. Where do you now live?
A. I now live at Des Moines, Iowa.

The Court: The record ought to show that upon the application of defendants, and by the consent of the plaintiffs, the testimony of the witness White is taken out of order.

2414 Q. Where do you now live?
A. At Des Moines, Iowa.
Q. How long have you lived in Iowa?
A. I have lived in Iowa about 35 years.
Q. Have you had any connection with the defendant United Mine Workers of America, officially or otherwise, and if so, state what?
A. I have been an officer of the United Mine Workers up until a few days ago for twenty consecutive years.
Q. What business or occupation did you have before you became an officer of the Mine Workers?
A. I was mining coal.
Q. Digging coal out of the ground? A. Yes, sir.
Q. Now what was your first official connection with the Mine Workers?
A. I was chosen Secretary-Treasurer of the Iowa Miners in 1898.
Q. Did you have any other official position after that?
A. I served in that capacity for five and a half years, and then succeeded to the presidency of that District.
Q. Then what followed?
A. Later on, several years later, I was elected International Vice President of the International Union.
Q. Of what year? A. In 1908.
Q. And you later became President of the International Union? A. Yes, sir.
Q. In what year? A. In 1911.
Q. How long did you serve in that capacity?
A. About six years and seven months.
Q. When did you cease to be President?
A. October 25th, 1917.
Q. What official position, if any, do you now hold?

A. I hold no official position in the union.

2415 Q. What government position, if any, do you now occupy?

A. I have accepted a position as adviser to Dr. Garfield, the Fuel Administrator at Washington.

Q. Appointed by the President?

Approved by the President, yes, sir.

Q. Now, I wish you would state to the jury what the United Mine Workers of America is?

A. The United Mine Workers of America is a voluntary organization; international organization in character, representing approximately 450,000 men, members.

Q. What character of laboring men does it include?

A. It includes all of the men engaged in the production of coal, in and around the mines.

Q. Does that include anthracite as well as bituminous?

A. Yes, sir, about 185,000.

Q. Anthracite coal miners? A. Yes, sir.

Q. Now, describe briefly the character of this organization with reference to the International, the International organization, District organizations and local unions.

A. The International organization of the United Mine Workers of America is founded largely in line with the basic principles of our Federal Government, exercising jurisdiction over its subordinate branches by granting home rule or autonomy to each district organization. That is, the national organization charters all subordinate branches with the right of home rule in each district.

Q. How many districts do you have?

A. I think about twenty-eight or twenty-nine.

Q. Now, what is a local union?

A. The local union is composed of men who work in and around the mine, and the local union is a local organi-

2416 zation exercising jurisdiction over a single or a group of mines, as the district may determine.

Q. Now, how does the individual member of the union work with reference to working for the organization or for himself? A. You mean,—

Q. (interrupting). Is this organization a pecuniary one, a financial one, or do its members each work for themselves, as far as digging coal and getting wages is concerned?

A. They do.

Q. And what is the purpose of their association?

A. To improve the condition of the mine workers, moral and social standing, better their economic conditions, and improve their educational standing.

Q. Does the national organization have a constitution?

A. Yes, sir.

Q. And are the objects and purposes of its organization stated in its constitution? A. They are.

Q. No, how does the International organization amend or change its constitution or functions?

A. The constitution of the United Mine Workers of America can only be amended in an International Convention.

Q. Is the highest authority in the International Union?

A. Yes, sir.

Q. Now, under the International Union, what other authority operates for the International Union, between International Conventions?

A. In the absence of an International Convention, the International Executive Board has the power to act between conventions.

Q. How are these men selected?

A. The President and Vice President and Secretary-Treasurer are chosen at large by the entire membership. Each Board member is selected by the membership in its

2417 own district.

Q. And altogether they constitute,—

A. (interrupting). Altogether they constitute the International Executive Board that guides the affairs of the organization between conventions.

Q. And how do they meet?

A. They meet on the call of the President from time to time when business requires them. They work under his directions.

Q. Now, when you speak of the affairs of the organization looked after by the Executive Board, you mean the affairs of the International organization, or the affairs of the local and district organizations?

A. The affairs that properly come with the purview of the duties of the International organization.

Q. Now, how is the district organized?

A. The district is organized, sometimes it is composed of a state, and sometimes composed of districts that lap over into two states, from the standpoint of the same physical conditions of mining.

Q. Do they have conventions?

A. They have conventions.

Q. And who compose those conventions?

A. The representatives of the local unions within that particular district.

Q. Do they also operate under district constitutions?

A. They do.

Q. That define the functions and powers and jurisdiction of the district? A. They do.

Q. What limitation is put upon the authority and functions of the district in its autonomous way?

A. The district has the authority to enact such laws for its government, so long as they are not in conflict with the organic law of the International Union.

2418 Q. Does the district also have an executive board?

A. Yes, sir, they do.

Q. And officers similar in service and character to those of the International organization? A. They do.

Q. Now, what if any functions or jurisdiction of the district, of its own immediate affairs, does the local union have to exercise?

A. The local union holds a corresponding relationship with the district as the district with the national. A local union may enact such laws for its own government, providing they do not conflict with either the International or the district laws.

Q. Now, Mr. White, explain to the jury what is a local strike or a suspension?

A. A local strike may be confined to one particular locality, or a number of mines that would be considered local in character. A strike, in the sense that we understand it, from a national view point, would embrace all of our organization, that is a general strike. However, district organizations have a right, under their charter, if they deem it expedient or necessary to redress their wrongs, to order a strike of their own membership locally, but they cannot engage in a strike of a majority of their members, or all of the members of their district, without the consent of the International organization.

Q. If the controversy involves less than a majority of the membership of the district, can the district order a strike and conduct it so far as its management and policy is concerned, without any direction or supervision or authority being exercised by the international union or its officers or Executive Board? A. They may.

2419 Q. Now, please state what, if any, jurisdiction, direction or control was exercised over the union miners at Prairie Creek, Arkansas, during May, June, July and August of 1914, in their labor controversy with the plaintiff companies, by the International organization of the United Mine Workers of America, its Executive Board or its officers?

A. None whatever.

Q. Now,—

The Court: I didn't catch that question.

Mr. Warrum: The stenographer will read it, please.

(Question read by official stenographer as follows:

"Q. Please state what, if any, jurisdiction, or direction was exercised over the union miners at Prairie Creek, Arkansas, during May, June, July and August, 1914, in their labor.")

Mr. Warrum: I would like to ask that question again, as I believe the reporter has not read it fully, although substantially, and I have it written out here.

Q. State what, if any, jurisdiction, direction or control was exercised over the union miners at Prairie Creek, Arkansas, during April, May, June, July and August of 1914, in their labor controversies with the plaintiff [companyes,] by the International organization of the United Mine Workers of America, its Executive Board or its officers?

A. I answered "None whatever."

Q. Was the labor difficulties between the plaintiff companies and the union miners at Prairie Creek, Arkansas, in April, May, June and July, 1914, within the jurisdiction of the United Mine Workers' organization, its Executive Board or its officers? A. No, sir.

Q. Now, Mr. White, there has been some evidence with reference to joint conferences between the United Miners,
2420 their delegate representatives and officers, and union operators, in what is known as the central competitive district, and in other districts, and I want to ask you now in what joint conference in the central competitive field were you a representative of the miners?

A. Well, I have been a representative of the miners in all of their joint conferences referred to, ever since I have been President of the International Union.

Q. That would be from 1911? A. Yes, sir.

Q. Were you in any of those joint conferences before you were president, and while you were Vice President?

A. As a spectator only.

Q. You would not be sent as an official? A. No.

Q. Now, what understanding or arrangement, if any, did you have with the union operators of the central competitive field, in any of the joint conferences of that field, from 1911, with regard to the interference of the production and commerce of non-union coal in West Virginia or elsewhere?

A. None whatever.

Q. What arrangement or understanding of this character, if any, to your knowledge, did the officers or members of the United Mine Workers of America, or their delegates or rep-

resentatives in such joint conferences, have with the union operators, or among themselves, at such conferences, or elsewhere, looking to the interference with production and commerce of non-union coal in West Virginia or elsewhere?

A. None whatever.

Q. Was there any period during your Vice Presidency or Presidency, during which there was a failure to agree on an interstate scale agreement in the central and competitive field?

A. Yes, sir, there was a period during 1908, I recall, that was not uniform; that is, the four states did not assemble and agree, but some of them settled locally. That is not an
2421 uncommon ocurrence, and when they fail to settle as a unit, the four states then, it has usually been the custom, to go back and work out a settlement separately, and that has been done sometimes, with some [invonvience] to coal production in the past, but since I have been President of the union, we have stopped the mines, we have endorsed what is called the non-suspension policy, and worked out the details of our differences without any inconvenience to the public.

Q. Some of these conferences, as I understand your answer, have adjourned without making any agreement at all?

A. Yes, sir.

Q. Now, how are these conferences convened, what brings them together?

A. The conference is usually convened at the request or invitation of the President of the United Mine Workers, following the International convention, which formulates the demands of the miners.

Q. Now, just a moment. The convention of the miners is held how often now? A. Biennially, every two years.

Q. At what time was the biennial convention agreed upon, or the change made from the annual convention?

A. It was done during my administration, I think probably in 1913. I don't know whether '13 or '14.

Q. Before that time they were annual and afterwards biennial? A. Yes, sir.

Q. At these conventions, you say, a joint scale was drawn up, and a proposed joint scale demand was drawn up?

A. Yes, sir.

Q. What was done by the convention with reference to selecting anyone to present the joint scale to the operators in their conference?

A. The usual method is that when the local unions
2422 throughout the country present resolutions, they are forwarded to their respective committees. For in-

stance, resolutions having a bearing on wages goes to the scale committee, on scale, which is composed usually of the president of each district of the United Mine Workers, and when they have canvassed all of these wage resolutions, they report back a condensed report for the ratification of the United Mine Workers convention as a whole, and it is then subject to discussion, consideration, amendment and debate, and the final result that may be agreed upon in that convention, becomes the demands of the mine workers, and then the four states that comprise the central competitive field select their delegates, and they have eight in number; eight principals and eight alternates, with three International officers as ex-officio members of that scale committee; they have a voice but no vote, and they proceed to present their claims to the operators, and continue in session so long as it is feasible and possible to work out a scale, and they have been successful in keeping the mining peace of the country as no other institution of our time has done.

Q. Now, when you convened, the operators and the miners, where is the convention usually held?

A. Well, sometimes,—

Q. (interrupting). The regular meeting place?

A. Sometimes we acquiesce in the wishes of the gentlemen on the other side, and we will go to some city that they may favor, and they will reciprocate in the following session by letting us name the city.

Q. With reference to the character of the hall, is it a public place or secret place?

A. It is usually a large assembly hall, sometimes in the leading hotel in the city; it is usually that.

2423 Q. Are these meetings held in public, and the proceedings published in the papers, or otherwise?

A. The proceedings are largely public. There are a great many men attend them that have no direct representation therein, and the proceedings are always made public. The notes are taken by the official stenographer and published to the world.

Q. Now, in these conventions, was there sometimes more miners than operators, from particular districts?

A. Well, from a representative standpoint they are equal in number.

Q. Their voice is equal?

A. Yes, sir, they [—] many votes, and so many are allowed to represent them.

Q. Now, what has been the policy of the United Mine Workers, and what have they done with reference to requiring any agreement entered into by their joint conference in

the central field being referred back to the International organization?

A. Well, the policy,—I can speak very emphatically on that point, since I have been its president. Since I have been President of the United Mine Workers, when leaving the miners' convention with wage demands, we have usually passed a resolution that the final result of our efforts would either be submitted, first to a policy committee composed of representatives of all of the states in the union, and then that policy committee would determine whether or not it was to be submitted for ratification to a reconvened convention of the United Mine Workers or a referendum vote of the entire membership. I may state that ever since I have [—] president all of the scales of the United Mine Workers of the Central Competitive Field have been ratified by a referendum vote of the entire membership of the bituminous coal fields.

2424 Q. Then the agreements entered into between the operators and miners in their joint conference, is not binding until formally ratified by a convention, and by a referendum vote of the membership?

A. No, sir, they are not considered ratified until that.

Q. Now, after the mners' demands are submitted to the operators, and counter demands by the operators to the miners, what follows in way of the character of proceedings that ensue?

A. There is a vigorous debate, two divergent forces contending for their respective contentions. The argument of course waxes hot. The coal operators don't want to yield to the contention of the miners, and the miners stand out for what they believe is right. They follow a hazardous occupation, and they contend for improved conditions from time to time, and when these debates, when they become as it were deadlocked in the larger conferences, it is not an [unfrequent] occurrence to sub-committee it, that is what we call it; extend the powers of that conference to a smaller sub-committee composed of a smaller number of representatives within that group for consideration, and that is usually the way, a smaller group works out the report.

Q. Now, during your connection with the United Mine Workers, and your experience with these joint conferences, has there been to your knowledge any agreement between the representatives of the miners, United Mine Workers of Ameri and the union operators, in these conferences or elsewhere, either expressed or implied, oral or written, except with reference to the contract ultimately agreed upon, signed and reported back to the union?

A. Positively no understanding ever affecting those things that are not contained in our contract.

2425 Q. How long would those debates last?

A. Why, our debates,—our conferences have extended sometimes in the past into weeks, adjournments have been taken when we could not move further in the consideration of these matters, in order that we might not break up proceedings, and throw the country into a strike. Recesses have been taken and they have come back again and renewed their endeavor.

Q. Now, some reference has been made to expressions by the operators relating to competition that the central competitive field was meeting from the non-union fields of West Virginia. I will ask you to state with reference to that, whether or not you know if operators in these point conferences making such agreements, and taking part in such debates, owning union mines in the central competitive field, were also the owners of non-union mines in West Virginia.

A. Yes, sir, I think in some instances there were union operators who owned mines in West Virginia.

Q. And how were they operating those mines in West Virginia, union or non-union?

A. In some instances I know of union operators who were operating extensively in the central competitive field, and were operating non-union mines in West Virginia, and in other instances not.

Q. The Pocahontas field is not now organized?

A. No, sir.

Q. Do you know Mr. Charles Maurer? A. Yes, sir.

Q. He was an operator in Ohio, was he not?

A. Yes, sir, he is.

Q. He has non-union mines in the Pocahontas field in West Virginia now?

A. I think he has a non-union mine in West Virginia, yes, sir; I believe he has.

2426 Q. Mr. White, I wish you would state what the purposes and policies of the United Mine Workers of America, its Executive Board and officers has been with reference to the unionizing of the non-union fields and mine labor generally throughout the United States?

A. Our aim as an organization, even since I have been associated with it, and I think it has been the aim since its foundation, is to organize the mine labor of all of the mines of the country, for the purpose of improving their conditions, and for no other purpose. We have published that to the world in our preamble for 30 years, and publicly proclaimed it; to secure our pay in lawful money, and to use every legiti-

mate effort to establish the organization among the men who work in and around the mines.

Mr. Warrum: That is all now, if your Honor please, but we reserve the right to ask him some additional questions.

Cross-Examination.

By Mr. Drinker:

Q. Mr. White, it was in 1912 that the convention became every two years, was it not, and not 1913?

A. I cannot just exactly state, it was either in '12 or '13. I think the declaration came in the '12 convention for it.

Q. And '13 was the first year skipped?

A. I think it is probable.

Q. Now, I hand you six books, which are marked Exhibits 30b, c, d, e, f and g, and ask you if they are the printed proceedings from your files, and I will state to you that they are the books produced by the United Mine Workers under the order of the court, and I will ask you if they are the printed reports of these joint conference proceedings?

A. I think they are.

2427 Mr. Warrum: The defendants object to the question as not cross examination.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Drinker: I will ask him as my witness, if you want me to.

Mr. Warrum: I supposed that counsel was trying to lay the foundation for what they had already introduced.

Mr. Drinker: That is what I am doing, I will admit it.

The Court: Proceed.

Q. Now, Mr. White, the proceedings in these conventions which you stated were taken down by a stenographer, were sent to the printer, were they not, to have them printed from?

A. I think so.

Q. Do you know where the original reports of those conventions are?

A. I do not; that is handled between the secretaries of the two associations.

Q. Do you know the original never came back from the printer? A. I don't know, I suppose they are back.

Q. You suppose they are back? A. Yes, sir.

Q. Did you ever see them?
A. I never attended to that at all, that is done under the Secretary's work.
Q. Did you ever see in the United Mine Workers office the originals?

Mr. Warrum: The defendants object to this line of questioning as not cross-examination.

The Court: I will let him ask this one question.

Objection overruled.

2428 To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Q. Did you ever see the originals of these books after they were printed?
A. I cannot say that I did, because I never had anything to require my attention to see them, but I could have seen them, I suppose, if I had asked for them.
Q. Now, do you remember,—have you with you the letter from Secretary of Labor Wilson to you of November the 2nd, about which I asked you in Indianapolis? A. I have not.
Q. Do you know where it is? A. I suppose in my files.
Q. In Indianapolis? A. Yes, sir.
Q. Now, will you please look and read over the paper which I hand you, marked plaintiffs' Exhibit 37, consisting of two pages, excluding the part written in pen at the bottom here, and state to me whether that is a copy of that letter received by you from Secreary of Labor Wilson?

Mr. Warrum: In view of the last part of the question the defendants desire to separately object to the question for the reason that it is not cross-examination.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: Wait a minute. That is the end of the cross-examination. I will call Mr. White as my own witness for a minute, if they are through with the redirect.

The Court: Are you gentlemen through?

Mr. Warrum: Just a minute. It will only take us a second, but in view of the fact that this witness is going away,—

The Court: Very well, we will take that into consid-
2429 eration.

By Mr. Warrum:

Q. Mr. White, do you know whether or not the International organization contributed any funds to the strike at Prairie Creek in 1914?

A. No, sir, I think they did not contribute any funds to it at all.

Q. Any other aid?

A. We never had any occasion to consider the strike from an International viewpoint.

Q. Now, is a strike that is directed or approved or endorsed by the International organization, do they vote strike funds or out of work funds, as they sometimes are called?

A. Sometimes a local strike or the district may ask the International for its endorsement of that strike, either for its moral effect or financial strength, and if it is endorsed and the International organization upon investigation finds that it has merit in it, and it endorses it, it sometimes has financed local strikes.

Q. Did the International organization either finance or endorse the strike at Prairie Creek between the miners and these plaintiff [compannes] in April, May, June, July and August, 1914?

A. No, sir, and they never were requested to do so.

Mr. Warrum: I believe that is all.

By Mr. Drinker:

Q. Do you know of your own knowledge whether or not the International organization furnished any funds in District 21 during that time?

A. To the best of my knowledge they furnished no funds to that strike.

Q. Do you know it?

A. I know to the best of my knowledge.

Q. Would you have paid the money there, if it had been paid?

A. I would have been consulted as the presiding of-
2430 ficer of the Executive Board; I would have known of the transaction.

Q. But the payment would not have been through your hands?

A. No, but the Secretary would not have paid it without my O. K.-ing the checks.

Q. And you don't know of anything being paid?

A. Nothing was paid that I know of as benefits to the Prairie Creek strike.

(Testimony for Plaintiffs.)

Mr. Drinker: Now, I wish to call the witness my own witness.

The Court: Let the record show that plaintiffs ask permission to examine this witness as their own witness.

By Mr. Drinker:

Q. Now, I hand you "plaintiffs' Exhibit 37, J. K. P." two pages, and will ask you to examne it, except for the part written in pen at the bottom of the second page, that is not a part of the exhibit, and state to me whether that is, to the best of your belief, or whether that is a copy of the letter received by you from Secretary of Labor Wilson, as to which we had the discussion in the deposition which I took at Indianapolis last August. Will you examine it carefully?

The Court: The deposition in this case?

Mr. Drinker: Yes, sir, in this case, taken at Indianapolis in August, 1917.

A. Yes, sir. I think so. As far as I know, that is a copy of the letter that I received from Mr. Wilson.

Q. Now will you please examine the paper which I hand you, marked "Plff. Ex. 35, J. K. P.", consisting of three pages, and state whether or not that is a copy of a letter from Mr. Bache, the receiver of the company, the present plaintiffs, to the President of the United States, which was
2431 enclosed by Secretary of Labor Wilson in a letter to you, dated November 2nd, 1914, to which we have just referred?

A. Well, I never read that letter because I was not interested in it, and consequently I could not verify the copy of it. There was a copy of the letter from the President.

Q. From the President?

A. Or from Mr. W. B. Wilson, from the Bache-Denman people to the President,—I think addressed to the President, but I have no knowledge of its contents. With that I have no recollection of just what it contained. It was complaining about the situation which prompted W. B. Wilson to refer the matter to me.

Q. To the best of your knowledge is that a copy of it?

A. I don't know; I can't say.

Q. Will you read it through and state whether or not that contains the same general matter, to the best of your recollection?

A. I don't know that I ever read the other one through. I don't want to testify to something I don't know about as a fact. But I do testify to the one that I received from Mr. Wilson.

Q. Now, Mr. White, do you remember in the 1916 convention, when James Mullin died?

A. Yes, sir, I have a recollection of his dying.

Q. You remember you appointed Pete Stewart on a committee to take his body home? A. Pete Stewart.

Q. Yes.

A. I don't know whether I appointed Pete Stewart or not, I don't think I did.

Q. You don't remember it?

A. I remember appointing some national men to acompany his body home, but I cannot recall that I appointed Pete Stewart. I might have.

Q. Do you remember after the convention of Sep-
2432 tember, 1915, in McAlester, when the trouble between Me. Hanraty and the rest of them was on, that after that convention all the officers resigned in District 21?

A. Yes, sir.

Q. And do you remember who you appointed to take their places?

A. I remember some of them, I don't know that I could call them all by name.

Q. Who did you appoint as President?

Mr. Warrum: Now, the defendants severally object to the question, and the evidence sought to be introduced thereby because it occurred after the suit was instituted, and is not any ratification, if ratification is possible in a suit of this kind, and is not bearing upon any of the issues here.

The Court: I suppose this is a question to establish who the officers were. Is that what it is for?

Mr. Drinker: I don't wish to say exactly what is is for, if I can help it.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Q. Did you appoint Pete Stewart as one of the Executive Board? A. I did not.

Q. You did not? A. I don't think so.

Mr. Drinker: Now, will you please produce or send for,—

The Witness: Pardon me, Let me get your question straight.

Q. When the old board resigned after the Hanraty trouble, and Hanraty was not sustained, you appointed a new executive board, did you not, and appointed Pete Stewart on that executive board?

2433 A. I know a number of them, but I cannot recall whether Pete Stewart was one of them or not; he probably was.

Q. To the best of your recollection he was?

A. I cannot say now positively whether he was or not.

Mr. Drinker: Will you get me the May, 1916, convention, as one of the papers to be produced? I didn't ask for it, because I didn't know that Mr. White would be here this morning, and didn't know that I would need it.

The Witness: The records will show who I appointed.

Mr. Warrum: I have made a heartly burden to myself since this trial began carrying to and [fro] all of these books, but by agreement of counsel, these local and district matters,— I have kept the national matters here in court, or carried them to and from court every morning, but with reference to the district and local, they have been placed nin a room at the hotel, and in charge of a man, and plaintiffs' counsel has been in touch with him daily. If you will grant a recess we will go and get them.

The Court: No, here is a situation that has arisen that nobody is responsible for. The fact is that this is needed. It may be necessary to get it.

Mr. Drinker: I want to say that Mr. Warrum has been very obliging about these papers,—

The Court: Never mind that, proceed.

Mr. Drinker: Maybe I can do without it.

Q. Mr. White, if the printed convention proceedings produced by District 21 in this case show a list in the treasurer's report show a list of payments to the old officers for say nine months, and then a notation of payment of salaries

2434 to officers appointed by the National organization, and show a salary to various people, including Pete Stewart, would you say then that Pete Stewart was one of the people that you appointed?

Mr. Warrum: The defendants desire formally to object to the question, and the evidence sought to be introduced thereby, for the reason that it is immaterial whether Pete Stewart was appointed President after that suit was instituted or not.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

A. My letter creating that temporary board would state positively who were the officers. It has been quite a while ago. I know some of them. I have a distinct recollection of some of them.

Q. Who would have that letter?

A. I suppose it would be in the proceedings of that convention; it was published in the United Mine Workers Journal to the world.

Mr. Drinker: I am afraid I will have to have the proceedings of that convention.

Mr. Hull: If the court desires I can fill in this time; I have some short witnesses that we might use just as a matter of saving time.

The Court: Very well.

2435 Lee Rogers, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your name. A. Lee Rogers.

Q. Where do you live?

A. I live at Hartman, Arkansas.

Q. Where were you living in 1914? A. At Hartman.

Q. Did you on or about July 13th, 1914, start to work at Prairie Creek?

A. I started up there to work.

Q. You started up there to work? A. Yes.

Q. Where did you take the train? A. At Hartman.

Q. Did you come to Ft. Smith? A. Yes.

Q. And then did you take a train from Ft. Smith to Prairie Creek? A. Yes, sir.

Q. Do you remember the time of the big battle down there?

Q. I remember the day, but I was not there.

Q. You were not there? A. No.

Q. How many days before that did this occur?
A. Well, I was there Monday, and this occurred on Friday. I was there on Monday, or I went by there.
Q. State what occurred on that train from Ft. Smith to Prairie Creek?
A. Well, we got on the train and there was some men on there said we were going to Prairie Creek and a man it would not be safe for us to go.
Q. Do you know one of those men?
A. I did not know him at the time; I found out his name.
Q. What was his name? A. August Smith.
Q. What did he say to you?
A. He said it would not be good for us to go out
2436 there.
Q. Did he say why?
A. Well, he didn't paticularly say why. He said it would not be good for us to go out there, that we were likely to be killed.
Q. How many employes were there going down to the mine on that train with you?
A. There were seven of us.
Q. Seven of you? A. Yes.
Q. Did anything else occur after the train left Greenwood?
A. Well, there was a good many of them got on there, and he said there were seven scabs on there.
Q. Who was that, this August Smith?
A. Yes, August Smith, but he told them not to bother anybody.
Q But he pointed out the seven scabs? A. Yes.
Q. Did you get off when the train got to the mine?
A. No, sir.
Q. Did anybody get off?
A. Bob Morris got off.
Q. What did the rest do?
A. Went on to Hartford.
Q. Why didn't you get off there?
A. They crowded up in the door so we couldn't get off.
Q. Did Sam Smith go on to Hartford with you?
A. Yes.
Q. He was one of the employes? A. Yes.
Q. Did you hear some conversations between Sam Smith and some of the men in Hartford that night? A. Yes.
Q. What did they say?
A. They said they would give him his bed and breaskfast but to leave and not come back any more.
Q. Did he leave that night? A. Yes.

Q. What time did he leave? A. I don' know.
Q. What did the rest of you do?
A. Stayed until the next evening at six o'clock.
Q. Then what did you do?
A. We came to Mansfield, we walked to Mansfield.

2437 Mr. Hull: That is all.

Cross-Examination

By Mr. Covington:

Q. Who was Sam Smith?
A. A boy that was with us.
Q. Was he the one that was doing the talking you have referred to? A. Which?
Q. Was he the one that did the talking on the train?
A. No, August Smith was doing the big talk. Which talk are you referring to?
Q. Who did the talk about your going down to Prairie Creek?
A. No, he didn't do any talking at all.
Q. Who was it that did the talking?
A. August Smith was the only man that did the talking to us.
Q. Where is he from? A. Who?
Q. August Smith?
A. He lives at Hartford, I reckon.
Q. You never saw him before?
A. I never seen him until that day and he told us his name.
Q. Have you ever seen him since?
A. Not that I know of.

Mr. Hull: If the court please, I want the record to show that this identifies the man in the witness Upton's testimony, and therefore lays the foundation for that testimony and makes it competent, in our view. I am just calling the court's attention to that at this time.

Witness excused.

2438 JOHN P. WHITE, recalled for further examination, testified further as follows:

Examination

By Mr. Drinker:

Q. Mr. White, I hand you the minutes of the International Executive Board meeting, produced by the defendants in compliance with the order of court, marked plaintiffs' Exhibits 46 to 52, inclusive, and purporting to cover the min-

utes of all of the meetings of the Executive Board during 1914, and ask you whether these are the copies from your files or from Mr. Green's files? You said there were two copies.

A. They are not marked,—

Q. (interrupting). One of them here has "President White" on it. Would that indicate?

A. I could not say, but I am inclined to think they are from my office. I usually checked the cases out when I replied to the correspondence as to the disposition of their grievances. But they would both be the same, in any event.

Q. Now there is one copy here which is in a less formal form than the others. Will you kindly look through that? It is not paged. Will you kindly look through it?

The Court: What is it he is looking through?

Mr. Drinker: The minutes of the executive board. This is plaintiffs' Exhibit No. 49, of the meetings of July 2nd and 3rd.

Q. Can you state, Mr. White, whether they contain the entire minutes of that meeting?

A. Yes, I think those are the minutes of that meeting.

Q. That is the complete set, is it?

A. Yes, sir, as far as I know, it was just a short session.

Q. Now I hand you a paper marked plaintiffs' Ex-
2439 hibit No. 53 produced by the defendants according to the order of the court, purporting to contain the proceedings of the Fourteenth Consecutive and Biennial Convention of District 21 held at Ft. Smith, November 18th, 1916, and I call your attention to the extract from the Auditor's Report at the bottom of page 103 and on page 104 of that exhibit and ask you, after refreshing your memory from looking at it, whether you will state that Mr. Pete Stewaare was one of the Board Members you appointed to District 21 at that time?

Mr. Warrum: The defendants desire to separately renew their objections on the ground that it is immaterial whether Stewart was appointed in 1916 or not.

The Court: The objection is overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

A. Yes.

Q. That is, Pete Stewart was one of the new board you appointed at that time? A. Yes.

Mr. Drinker: Your recollection is right, it was not Stewart, but Cunningham, that was appointed to bring Mullen home.

That is all.

Witness Excused.

Mr. Warrum: This witness can now be excused?

The Court: Yes, certainly, unless there is something further that you gentlemen want of him.

2440 Mrs. Fannie Briggs, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. What is your full name? A. Mrs. Fannie Briggs.

Q. You are the wife of J. L. Briggs?

A. Yes, sir.

Q. Do you know whether he is the one that testified in this case yesterday? A. Yes, sir.

Q. I show you a paper marked plaintiffs' Exhibit No. 44 and ask you if you have ever seen that before? Look on the other side of it, too. A. Yes, I think I have.

Q. Will you state where you got that, and when?

A. Why, it was at Berma.

Q. It was at Berma? A. Yes, I live at Bermur.

Q. Do you remember when it was?

A. On what day?

Q. Yes, about when?

A. No, sir, I dont believe I do.

Q. This is dated April 19th, 1914. Do you remember whether it was on or before that time?

A. Yes, sir, I guess,—I think it was.

Q. Who gave you that letter?

A. Well, I dont know.

Q. State how you got it?

A. Well, now I got it was,—it was after night, and there was two men came up and Mr. Briggs' mother lived right in front of us and she got scared and he was in the bed and I got up to run over there and these two gentlemen was standing at the porch and reached me the letter and said, "Give this to Jim." Who they was I dont know.

Q. Did you give it to your husband? A. Yes.

Q. "Jim" was your husband? A. Yes.

Mr. Hull: We offer this letter in evidence.

2441 Mr. Grant: We object to the introduction of that letter in evidence because it has not been identified and there is no showing that any of the defendants are connected with this letter. We make that objection separately and severally for each defendant.

The Court: There is no foundation laid for it. The objection is sustained.

Mr. Hull: Just that I may understand. The laying of a foundation,—what does the court mean?

The Court: You have not shown where it came from. There is nothing here that shows that anyone that ever was connected with or heard of this case handed that letter to her.

Mr. Hull: Has the court seen the letter?

The Court: No.

(Counsel hands letter last referred to to the court.)

The Court: For the present the objection will be sustained.

Mr. Hull: May we have an exception?

The Court: Yes.

Witness Excused.

(Exhibit 44, so referred to and offered in evidence and excluded by the court is in the words and figures following, to-wit:)

April 19 1914.

Mr. H. briggs—
we under stand that white is going to sart and the first man go to work we will kill him we want white to sine up nothing else will do.

2442 (On the back of the foregoing Exhibit 44 there was a rough drawing of a body hanging to a telegraph or telephone pole, to a cross arm of a pole, with a black hand printed above it.)

2443 GARLAND C. CHOATE, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name? A. Garland C. Choate.

Q. Where do you live? A. I live in Yell, Arkansas.

Q. At what place? A. Near Garnell.

Q. Where did you live in November, 1914?

A. I was living in Danville, Arkansas, then.

Q. Is that in Yell County? A. Yes, in Yell County.

Q. On or about November 18th, 1914, did you go to Prairie Creek, as a United States deputy marshal? A. I did.

Q. Who employed you? A. Mr. Parker.

Q. The United States Marshal for the Western District of Arkansas? A. Yes.

Q. What were you to do down there?

A. I were to guard the men to work and meet the trains.

Q. Speak so that we can hear, Mr. Choate?

A. I were to guard the men to work and meet the trains. I were to meet all of the men coming in to work, and guard them from the train to the work, and to guard them from the work to the train.

Q. You mean the employes at No. 4? A. Yes.

Q. As you took those men to and from No. 4, between the camp and the mine, state whether or not you ever had any trouble?

A. We never had no trouble. We have had them three or four times where we thought there would be trouble. They would call us scabs.

Q. What would happen?

A. They would get out and gang up in front of us and say, "There comes a bunch of scabs."

2444 Q. Did they call you any names yourself?

A. Yes, sir, they called me a "scab herder."

Q. Do you remember the occasion of moving an engine over at Coronado? A. Yes, sir.

Q. When was that?

A. That was sometime in December, I think.

Q. Were you helping the employes do that?

A. No, I just went with the men to guard the men over there to move this engine.

Q. State what you did that connection and what happened?

Mr. Warrum: If the court please, the defendants separately object to that, to what happened in December, 1914, as being after the institution of this suit.

Mr. Hull: If your Honor please, if I understand the court's ruling on this, this is simply to show the continuation of the conspiracy and show the conditions that existed in connection with this same mine after the operations were resumed after the receivership, in November and December.

The Court: The objection is overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

A. I went over there with something like eight or ten men, I think it was, to move an engine, and we got over there and went to work I suppose about ten o'clock. And there was several men gathered around us.

Q. Did they say anything to you?

A. No, only to holler "scabs", and they continued gathering around there until along about 11:30, and they all disappeared. We thought there was going to be trouble.

2445 Q. Never mind what you thought. Just state what happened.

A. That is all that happened that day.

Q. What did they employes do you were protecting there?

A. They were taking the engine apart and loading it.

Q. Did they load part of it that day? A. Yes.

Q. And did you go back the next day and move the other part of it? A. Yes.

Q. What did you find when you went back?

A. The rest of it was all blown to pieces.

Q. Did you find any dynamite around there?

A. Yes, we found one stick that had failed to explode.

The Court:

What mine was this?

A. This was at the mine on the Midland Valley. I forget the name.

By Mr. Hull:

Q. Is it the Coronado mine?

A. Yes, the Coronado.

Q. Did you ever attempt to buy things in stores at Midland? A. Yes.

Q. What occurred whenever you tried to buy things there?

A. Well, I never could buy anything from anyone in Midland, but one store.
Q. What store was that?
A. Buck Tharel's store.
Q. Why didnt you buy things at the other stores?
A. They would not sell them to me.
Q. Do you remember one store in particular at which you were refused goods? A. Yes.
Q. What store was that? A. Overman's.

The Court: Speak a little louder.

A. (continuing). I tried to buy some blankets on the first of December and he would not sell them to me.
2446 Q. Was that Joe Overman?
A. I guess so. It was Overman's store in Midland.
Q. How did you have to purchase things?
A. I got a soldier to go buy them for me.
Q. Were you refused at practically every store in Midland?
A. Yes, I tried every store in Midland.
Q. How long were you serving there as a deputy marshal?
A. From the 18th of November until the 3rd of February, 1915.
Q. Were there soldiers there at that time?
A. Yes, sir.
Q. Do you remember on one occasion when a man was brought into camp that had been beaten up apparently?
A. Yes.
Q. State what occurred in that connection?

Mr. Warrum: The defendants desire to renew separately their objection to this evidence as having nothing to do with this case.

The Court: Same ruling.

To which ruling of the Court the defendants, and each of them, then and there duly excepted and still excepted.

A. We were at the mine. We were in there together and it happened about ten o'clock at night and Wilson Bowersock and three or four soldiers came over there with a man that had been beaten up. He was in their camp.
Q. That was what they told you? A. Yes.
Q. What condition was the man in?
A. He was brought in beaten up.
Q. Was he an employe of the camp?
A. He was coming down there to work.

Cross-Examination

By Mr. Covington:

Q. How do you know he was coming down there to work?

2447 A. He had been sent from Ft. Smith and had failed to get off at Prairie Creek. He was supposed to get off at Prairie Creek.

Q. How do you know?

A. That is what he said, that is all we had to go by.

Q. Did you know anyone in the crowd at Coronado?

A. No, sir, I didn't.

Q. Who else was brought in when this man was beaten up?

A. With him?

Q. Yes. A. No one.

Q. Were you present the next day when this man and a coal digger and a soldier was tried before the officers down there? A. No, sir.

Q. You were not present? A. No, sir.

Q. Then you did not hear the testimony in the case?

A. No, sir.

Mr. Covington: That is all.

Witness excused.

Mr. Hull: If the court [plese], I am sorry, but I let some of my witnesses go. I thought that Mr. White would be on the stand all of the morning. I have no other witnesses available.

The Court: Have you a short deposition?

Mr. Hull: Yes, your Honor, I was going to read one before Mr. White came in.

This is the deposition of William J. Clinton and John Morris, taken June 14th, in New York City. Will the court allow this to be offered and not read? It is simply an identification of some bills of lading covering the shipments. It

2448 is a matter of just taking the proof and I do not desire to read these depositions unless it is required.

The Court: Unless counsel objects, they may be considered as read.

Mr. Warrum: We would like, if the court please, to look at the depositions and see if there is anything in them that we desire to object to. We would rather that they be read, so that we can preserve our objections.

Mr. Hull: At this time I will withdraw the offer and read the deposition of Harry B. Hill, taken in Oklahoma City, No. 610 Campbell Building, on the 19th day of October, 1917, both the plaintiffs and the defendants being represented by counsel (reading):

"Thereupon, H. B. HILL being introduced as a witness on behalf of the plaintiff, having been first duly sworn, to testify the truth, the whole truth, and nothing but the truth, in answer to questions propounded to him, deposes and says as follows:

Direct Examination

By Counsel for the Plaintiff:

Q. State your name? A. H. B. Hill.

Q. What is your present business?

A. In the cigar business and oil business.

Q. In Oklahoma City? A. Yes, sir.

Q. How long have you been here, Mr. Hill?

A. About three years.

Q. Were you in 1914, in the month of June, factory salesman for the Remington Arms Co? A. Yes, sir.

Q. Do you remember certain shipments of guns ordered from your company and shipped to John Mastelle and Oscar Layton? Or either of them? At Hartford in June, 1914?

2449 A. I do not remember about the date but I remember the shipments were made about the last of the time of my residence in McAlester.

Q. I show you a paper, being an order blank of the Remington company, already marked in a previous deposition: "For identification, Ryerson, Exhibit No. 3, September 18th, 1917" and ask you if that order slip is in your handwriting?

A. Yes, sir.

Q. Referring to that exhibit I will ask that it be marked by the stenographer in this deposition for identification: "Hill Exhibit No. 1 of October 19th, 1917". I will show you, also, another order slip already marked in another deposition, for identification, "Ryerson Exhibit 3, September 15th, 1917" and ask you if that is in your handwriting? A. Yes, sir.

Q. I will ask that that be marked for identification in this deposition: "Hill Exhibit No. 2 of October 19th, 1917". I will show you, also two other order slips already marked in another deposition: "For identification, Ryerson Exhibits 8 and 9, respectively, of September 18th, 1917", and ask you if they are in your handwriting? A. Yes, sir.

Q. I will ask that they be marked, respectively, exhibits in this deposition for identification: "For identification, Hill Exhibit No. 3 and 4, of October 19th, 1917'. I will ask you

to state to what these documents, these four documents identified by you, relate, referring you first to your Exhibit No. 1?

A. This order was given to me by Ed Morgan for John Mastelle of Hartford, Arkansas.

Q. Who was Ed Morgan?

A. Representative of Atkinson-Williams Hardware Company.

2450 Q. What did you do in relation to that order?

A. I do not remember now.

Q. Did you wire that order in to the New York office of the Remington Arms Company?

Q. This order telegraphed to the company. A. Yes, sir.

Q. Referring to your exhibit No. 2, the next order exhibited in that volume?

A. This order was also given to me by Ed. Morgan of the Atkinson-Williams Hardware Company to be shipped to Mastelle.

Q. What did you do in relation to that order?

A. This order was telephoned to jobber.

Q. To Atkinson-Williams of Ft. Smith? A. Yes, sir.

Q. Referring to your exhibit number you may state to what that applies?

A. This order was given to me by the same party, Mr. Morgan of Atkinson-Williams Hardware Company, and shipped to Oscar Layton, Hartford, Arkansas.

Q. What did you do with reference to that order, "Exhibit No. 3"? This order went through the regular channel?

A. Not that I remember.

Q. Did you mail it to the office?

A. I mailed a copy to the office.

Q. You mean by "the regular channel", is that the regular course of business of your company at that time?

A. Yes, sir.

Q. Referring to "Exhibit No. 4", to what does that apply?

A. This order was given to me by Mr. Morgan of the Atkinson-Williams Hardware Company and shipped to Oscar Layton, Hartford, Arkansas.

2451 Q. What did you do with that?

A. Sent through the regular channel.

Q. Mailed to the company by you?

A. This is merely a copy.

Q. How does that order get to your company?

A. This is filled by the jobber.

Q. You are referring now to what exhibit?

A. No. 4. And it also applies to No. 3.

Q. Referring to Exhibit No. 1, will you state, if you can who the purchasers of that order were? Or who the purchaser was?

A. The purchaser was John Mastelle.

Q. What do you mean by "purchaser".

A. The man to whom it was shipped.

Q. John Mastelle is the man whose name appears on the line after "shipped to"? A. Yes, sir.

Q. Will you refer to the last line on that order, Exhibit No. 1, and tell the court, if you can, who the purchaser was, as stated in the line after the words "signature of purchaser"?

A. Well, I do not know about this deal. I can not remember about that part of it.

Q. What does that order state as to the signature of the purchaser? A. States: "Federation of Labor. Holt."

Q. Did you put that on there?

A. I do not remember of it.

Q. Is that your handwriting? A. It seems to be.

Q. You do not remember putting that on there? Or why you did? A. No, sir.

2452 Q. Referring to Exhibit 2, does the same answer apply to the notation on the bottom of Exhibit 2. "Federation of Labor. Holt"?

A. Yes, sir.

Q. Mr. Hill, did you know who the purchaser of those guns and ammunition was?

A. I did not at the time. No, sir. As I remember.

Q. When did you first learn who the purchaser was?

A. I was told by Mr. Morgan.

Q. When was that?

A. I can not remember exactly.

Q. About how long after the order was wired in to the company? A. I do not remember that.

Q. Would you say it was a few days? Or a month? Or six months? A. I can not remember exactly.

Q. Can you approximate it, Mr. Hill?

A. No, I can not truthfully.

I offer these four exhibits in evidence, Nos. 1, 2, 3 and 4, identified by the witness, Hill, previously in his testimony of this date."

2453 Mr. Hull: I now offer the exhibits referred to being exhibits 1, 2, 3 and 4, identified by the witness Hill.

Mr. Warrum: In connection with the offer of these exhibits, the defendants separately would like to object to their

introduction in the evidence, and the introduction of each of them, for the reason the defendants are not parties to them, these are transactions which took place in the absence of the defendants, between Mr. Hill, the witness, and a representative of the Atkinson-Williams Hardware Company, Mr. Morgan.

The Court: It is for the jury to say whether they are applicable to these miners under all of the facts. The objection is overruled.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted and still except.

"Q. I will show you, Mr. Hill, a letter written on the letterhead of ....., dated June 14, 1914, at McAlester, Oklahoma, signed R. B. Hill, and already marked in another deposition, Ryerson Exhibit 6, September 18, 1917, and ask that it be marked in this deposition, "Hill Exhibit No. 5" of this date, marked for identification. I will ask you, Mr. Hill, if you wrote that letter? A. I think I did.

Q. That is addressed to your firm in New York?

A. Yes, sir.

Q. I will ask you if that letter referred to the shipments of guns and ammunition covered in the orders identified by you in your Exhibits Nos. 1 and 2?

A. To cover all orders shipped in my territory.

2454 Q. To [covery] all orders shipped in your territory?

A. Yes, sir.

Q. For what period of time?

A. Well, I meant—did I state in that letter?

Q. I am asking you to what that letter referred?

A. This letter seems to refer to orders shipped that week.

Q. I will ask you, again, if that letter refers to shipments on Exhibits 1 and 2? A. Yes, sir.

Q. I will show you a carbon copy of a letter dated June 14, 1914, addressed to Hayden Sporting Goods Company, McAlester, Oklahoma, signed by the Remington Arms Company, by General Sales Manager, marked for identification in another deposition for identification, "Ryerson Exhibit 7, September 18, 1917" and ask that that be marked for identification: "Hill Exhibit No. 6" of this date. I will ask you if you remember receiving an original letter of which that purports to be a copy? A. Yes, sir, I remember.

Q. Have you the original of that letter? A. No, sir.

Q. Do you know where it is?

A. Have not the slightest idea.

Q. I offer in evidence the Hill exhibits Nos. 5 and 6, just identified by the witness."

Mr. Warrum: To which the defendants separately object to the introduction of each of them, for the reasons above given.

The Court: The objection is overruled.

To which ruling of the Court, the defendants, and each
2455 of them, at the time duly excepted and still except.

"Q. I will show you what purports to be a carbon copy of a day letter dated June 14, 1914, addressed to H. B. Hill, of McAlester, Oklahoma, signed by Remington Arms & Union Metallic Cartridge Company, C. L. Ryerson, General Sales Manager, and already identified in another deposition: "For identification, Ryerson Exhibit No. 11, September 18, 1917," and ask that that be marked for identification, "Hill Exhibit No. 7" of this date. I will also show you a "received" message on a Postal Telegraph blank, dated June 18, 1914, at McAlester, addressed to the Remington Arms & Union Metallic Cartridge Company at New York, and signed: "H. B. Hill" already [markeed] in another deposition for identification, "Ryerson Exhibit 10, September 18, 1917" and ask that it be marked in this deposition for identification "Hill Exhibit No. 8" of this date. I want to refer first to "Hill Exhibit No. 8". of this date and ask you if you remember of sending that telegram to your firm in New York? A. Yes, sir.

Q. Referring further to your Exhibit No. 7 of this date I will ask if you remember receiving a day letter from your firm in New York, of which that purports to be a copy?

A. Yes, sir.

Q. I will ask you to state whether the reference, contained in the said day letter, to a telegraphic order of Model 14 rifle and ammunition refers to either one or both of the orders covered in your exhibits No. 3 and No. 4 of this date? I will ask you to look at those and say if you can tell?

A. It seems that it refers to order of June 17th.

Q. And what is the exhibit number on that?

A. No. 3.

2456 Q. Do you remember whether Exhibit No. 8, telegram signed by you, of June 18th, was in reply to the day letter of June 18th from your firm? Exhibit No. 7?

A. I think it was.

2457 The Court: Is there any cross-examination?

Mr. Warrum: I believe there is some (reading).

"Q. When you took an order for the goods of your firm the order was credited to some jobber in your district? Was that right? A. Yes, sir.

Q. You did not make out any bills? A. No, sir.

Q. Or orders whereby the debits for the goods ordered was made against an individual or party but was always placed against some jobber, was it not? A. Yes, sir.

Q. John Mastelle was a hardware dealer at Hartford, Arkansas? A. Yes, sir.

Q. When your order that you have identified as your exhibit No. 1 directs a shipment to John Mastelle, the order being placed for Atkinson-Williams Hardware Company, it simply means that the shipment was charged by the Remington Company against the Atkinson-Williams concern but shipment made to Mastelle? A. Yes, sir.

Q. Was Mastelle the purchaser through the jobber?

A. Yes, sir.

Q. Your attention has been called to a memorandum, apparently at the bottom of this order, following a statement, signature of purchaser, the statement which you say is in your handwriting, "Federation of Labor. Holt". Was the Federation of the purchaser? Or Mastelle?

A. Mastelle was the purchaser.

Q. And I believe you state you have no recollection of how that memorandum was made? A. Cannot [temember] now.

Q. Can you give an explanation of why it is on that order?

A. No, sir.

2458 Q. Is it a fact that the purchase was made by John Mastelle? A. Yes, sir.

Q. And the memorandum, "Federation of Labor", does not signify the purchaser or the consignee?

A. It must be because I made no sales to the Federation of Labor.

Q. Well, how about the word "Holt"? Did you make a sale in that instance on June 10th? Was that sale made to Holt? Or to Mastelle?

A. To Mastelle. I never made any sale to Holt.

Q. Referring to your Exhibit No. 2, of the same date, the sale being made to the Atkinson-Williams Hardware Company but the shipment to John Mastelle, in that shipment as the other, the consignee and purchaser was John Mastelle, the hardware merchant at Hartford? A. Yes, sir.

Q. And that order was filled by the jobber? This order telephoned to the jobber?

A. That was furnished through the jobber.

Q. At the bottom of the order is the same statement, signature of purchaser, followed by the notation, "Federation of

Labor. Holt." Did you sell that bill of goods to the Federation of Labor or Holt? A. No, sir.

Q. Sold to John Mastelle through the jobber salesman?

A. Yes, sir.

Q. Coming to the order dated June 17, 1914, Exhibit No. 3, that order was filled through the Atkinson-Williams Hardware Company? Was it not?

A. Yes, sir. If I remember.

2459 Q. Was the order given to you by H. E. Morgan? Or given by you to Morgan?

A. Given to me by Morgan.

Q. Morgan was the representative of the Atkinson-Williams Hardware Company? Was he? A. Yes, sir.

Q. And the shipment, if filled at all, was filled or made by the Atkinson-Williams Hardware Company?

A. Yes, sir. These orders were given to me, as I remember, by their representative and I paid the telephone and telegraph charges.

Q. To where and to who?

A. To the jobbers and the Remington U. M. C. Company.

Q. You would send this order in to New York?

A. If instructed by the jobber salesman or the jobber.

Q. Well, in that instance were you instructed by the jobber salesman?

A. This order was given to me by Mr. H. E. Morgan, as I remember.

Q. Did you 'phone it in to the Atkinson-Williams Hdw. Co. or telegraph or mail it to the New York concern?

A. I think wired to the New York office.

Q. Was the sale made by the Atkinson-Williams Hdw. Co.?

A. Made by the Atkinson-Williams Hardware Company.

Q. If this shipment, or any of these shipments were made, they would have to be made to the Atkinson-Williams Hardware Company? Is that correct?

A. They, possibly, might have been shipped direct to the retailer and charged to the account of the jobber.

Q. In this Exhibit No. 3 is there anything to indicate

2460 to you where the goods were shipped by the Atkinson-Williams Hardware Company, if they were shipped at all? A. I do not understand.

Q. I am aware there could have been a sale made by the Remington Arms Company—using a short term—to the Atkinson-Williams Hardware Company, the account would always be kept against them and no account against the dealer, as I understand? A. Yes, sir.

Q. But in some instances shipments were made to the Atkinson-Williams Hardware Company and shipped out by them

to the retailer? In other words, there might be a shipment direct from the New York concern to the retailer?

A. Yes, sir.

Q. I will ask you if you can refer to order No. 3 of June 17th and see from that how the shipment was made, if a shipment had been made at all would it have been made by the Atkinson-Williams Hardware Company or from the factory by the Remington Company? Is that plain? Is my question now plain, Mr. Hill?

A. Judging from the memorandum of the order it would be impossible for me to state. It would be reasonable for me to judge this order was shipped from Ft. Smith.

Q. You would assume if a shipment had been made on it that the shipment had been made by the Atkinson-Williams Hardware Company to the person named? Is that correct?

A. Yes, sir.

Q. I will refer you to your Exhibit No. 4, dated June 17, 1914, Have you that before you now?

A. Yes, sir, Exhibit No. 4.

2461 Q. Jobber, Atkinson-Williams Hardware Company, ship to John Mastelle. If a shipment made in that instance was it a shipment made by the Atkinson-Williams Hardware Company?

A. I can not tell by this memorandum whether these shipments were made from Ft. Smith or the factory. I would like to ask a question. What I want to get at is this; giving my answers to these questions it is impossible for me to state whether they are shipped from Ft. Smith or the factory.

Q. Referring to your Exhibit No. 5, purporting to be a letter written by you, June 14, 1914, to your firm, I notice this statement: "Will see that both sides are furnished with Remington products but do not want to be referred to in the deal". Do you refer to the Bache-Denman interests as one side of this?

A. I can not state the exact parties to whom I had reference in this letter but as I remember at that time there seemed to be quite a little agitation all over that particular district.

Q. If you refer to the miners as one side, you referred to the operators opposing the laborers on the other side of the controversy, do you not?

A. My idea in writing this, or rather the statements of this letter as I remember it, would cover quite a multitude of sins. There seemed to be quite a little agitation all over that district. As far as Bache-Denman—I do not remember who was in trouble at that time.

Q. These sales that you say were referred to you when you wrote your letters are sales made to John Mastelle living at

Hartford, and one John Layton also living at Hartford? That is both Mastelle and Layton living at Hartford, Arkansas? That is in the Prairie mining district, is it not?

A. I do not remember one mining district from the other.

2462 Q. Did you sell any rifles to the Bache-Denman interests or their agents? Or to be supplied to them?

A. I do not remember now.

Q. You say that you refer to both sides. Had you been supplying or receiving any orders for arms or Remington ammunition that was to go to operators?

A. Not that I remember of, I do not remember of selling any operators. I supplied quite a number of the company stores with perhaps all their guns and ammunition in the coal district, you might say, the McAlester coal district."

The Court: Is there any redirect examination?

Mr. Hull: I do not think I will insist on the redirect. There is recross.

Mr. Warrum: We waive the recross examination.

The Court: I think gentlemen we had better adjourn here until Monday morning November 5, 1917 at 9:30 o'clock A. M.

2463 Fort Smith, Arkansas.

Monday, November 5, 1917, 9:30 A. M.

Pursuant to adjournment as last aforesaid, came all of the parties as before on Monday, November 5, 1917, and the trial of the case proceeded as follows:

SAM THOMAS, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. McDonough:

Q. Your full name is Sam Thomas? A. Yes, sir.

Q. Where do you live? A. At Mascot, Tennessee.

Q. How long have you lived there?

A. I moved there in January.

Q. Are you a native of Tennessee, were you born in Tennessee? A. No, sir, I was born in Pennsylvania.

Q. What business are you in?

A. Engineering up there at the American Zinc Company.

Q. Were you employed in 1914 at the Bache-Denman mines in Sebastian County,—this county? A. Yes.

Q. Who employed you?

A. Why, Mr. Eustis, was the man that employed me.
Q. What time did you get to this county?
A. I don't just remember the date, it was somewheres in June, along in there, about in the middle or towards the last of June, I don't just remember.
Q. What kind of work did you do when you went to the mine?
A. When I first went to the mine I went to guarding and from that on to firing.
2464 Q. What do you mean by "firing"?
A. Firing boilers.
Q. In firing the boilers did you work daytime or night time? A. I worked night time.
Q. Were you working there in July, 1914? A. Yes, sir.
Q. On July 16th, the day before the battle, were you there?
A. Yes, sir.
Q. Were you working there on the night of July 16th, the night between July 16th and July 17th? A. Yes, sir.
Q. What kind of work were you doing then?
A. Firing the boilers.
Q. State whether anything unusual happened during that night, and if so state what it was?
A. Up along between—as near as I could judge—between 12:00 and 1:00 o'clock, why our lights went out on us,—between 12:00 and 1:00 o'clock the lights went out on us.
Q. Were they electric lights? A. Yes, sir.
Q. What was done?
A. Well, I didn't hear of anything more until along in the morning when a volley of shots came in and a torch was lit where I was so that I could see the water columns. I took a torch and lit it and put it up where I could watch the water columns. I thought the light had just went out and would be back again so I lit my torches and stuck them up by the water column so I could see my water. And no lights came on no more at all, and along between 3:00 and 4:00 o'clock, as near as I could judge, a volley of shots came in there that seemed to come from back of the boiler room.
Q. What direction was that?
A. They came in from towards that road that leads into Huntington, from the middle of a patch of woods, they
2465 seemed to come from that little patch of woods toward the boiler room.
Q. Was that in the direction of Huntington?
A. Yes, in the general direction of Huntington.
Q. That was about what time?
A. That was between 3:00 and 4:00 o'clock in the morning, as near as I can remember.

Q. Could you tell about how many shots were fired at that time? A. Oh, several of them.

Q. Give your best judgment as to the number, if you can give it. A. Probably 100 or more.

Q. Did any of those shots hit in or about the mine?

A. Yes, sir, they flew all around that boiler stack and all around the boiler room above my head and hit the cable. Several of them hit it, I could not say how many.

Q. What was the next thing that occurred after that?

A. Well, there was nothing more occurred then until between 7:00 and 8:00 o'clock, that I remember of at all.

Q. What took place then?

A. I was sitting in the store down there and Mr. Moore came in.

Q. What Mr. Moore was that? What was his first name?

A. Buster, I believe.

Q. Buster Moore? A. Yes.

Q. He was superintendent there at the time? A. Yes.

Q. Well, what occurred then?

A. I was sitting there in the store and he came in and as soon as he came in I said to him, "What is the matter", and by that time several shots came in from towards the school house, and I didn't need to ask him any more what the trouble was because I already knowed.

Several shots came in from the school house, probably
2466 300 or 400 [o4] 600 of them, just like a hail storm coming in there.

Q. [Whenre] did the bullets hit, if you know?

A. All over the place, some hit the tipple and some hit around the cars, and from there into this boiler room, from that on towards this way (indicating).

Q. Then what was done?

A. Why, we all got guns—what guns we had and got in the clear where we could keep ourselves out of the road of them, and they commenced firing in on us, and of course we returned it.

Q. How long did you stay there?

A. I judge it was along about dinner time when I left.

Q. Who went away with you, if anybody?

A. There was Earl Sylesberry, John Baskins and a fellow by the name of Baston or Barton, and a fellow by the name of Storns, Mike Douthit, Ewell Douthit and myself.

Q. Where did you go?

A. We made from where we was out to a little patch of woods right back in the [minds]—right back from the mine, just a little patch of woods along the Huntington

road. We made back in there and we went back through a big field and we started back to the field, and a volley of shots came on us from back in this direction (indicating), and we made a turn and cut across the Huntington road and ran down through a cotton patch or a corn patch,—I don't remember just what it was, and—but we took across the Huntington road and went down into that corn patch, and there we ran into a gang of about sixteen of them, and they came up and gathered around us. One of them had a gun, a 45-70, I don't remember which man it was that had that 45-70. It was one of the old fashioned guns.

2467 Q. What did they do with you then?

A. They took us from there along down there a little piece and took us over a little hollow place and across that mine track and we went down over across the main line of the Midland road and on through the woods and across the wagon road, and there was a field down there with an old well and an old house that sets back in the field and we all stopped there and got a drink and had a talk; and from there we made it on around through the woods to the school house. When we got to the school house these fellows turned us over to a fellow they called "Captain". I don't know the man, if I seen him I might.

Q. Did you know any of the men that captured you?

A. Yes, I recognized one.

Q. Who was it?

A. I found later it was a fellow by the name of Blackburn.

Q. They left you at the school house? A. Yes, sir.

Q. In charge of some other men? A. Yes, sir.

Q. Then what was done with you?

A. He took charge of us then and he—in that little branch that comes down from the mountain—and he said, "you boys come on and get back of the school house" and we went up there and got back of the school house and we stayed there, I couldn't say how long. And some men came up there and he told them to take us up the hollow apiece out of the way of the shots, and they took us up there 100 or 150 feet and lined us up there and searched us. And from there they took us up the hollow to a little log house.

2468 Q. What happened when you got there?

A. They said for us,—the fellow that had charge of us told us to go in there and sit down, and we went in there and sat down, and everything went on all right until we got ready, —until they got ready to take us up to Hartford.

Q. Before that, before they got ready to take you up to Hartford, did you hear anything that was going on over in the direction of the mines? A. Yes, sir.

Q. What did you hear?

A. We were sitting in the log house and there came a great big yell, you could hear it all around, anyone could hear it; and a fellow said, "They have taken it",—someone made that remark, I don't know who it was,—"Well, they have taken it".

Q. What happened then? Did anybody come there while you were there? A. Yes.

Q. Who?

A. A fellow by the name of Slankard, a deputy sheriff down there.

Q. Do you know whether he was a constable or a sheriff?

A. He was either a constable or a sheriff,—I know he was one or the other.

Q. Go ahead and tell what was said and done?

A. He came there and he said to these men that was guarding us, "These are my men and I am going to take them to Hartford", and he told us to come out and line up, and I stepped out of the log cabin first,—I stepped out of the door first onto the path and John Baskins stepped out right to my side and we started off, and Earl Sylsberry was the third man out of the cabin. And I heard a shot fired and John Baskins fell right at my side, and I heard another shot fired and I seen

Earl Syllsberry,—I turned around and seen Earl Sylls-
2469 berry grab himself right there (indicating) and he just stood up and wheeled around this way (indicating) until he faced the man again, and I seen the fellow shoot him and he shot him right there (indicating) and I seen him shoot him the second time, and he turned around and faced the fellow again and he fell, and the fellow walked up to him and looked at him and he used an oath in it and said, "I guess you will not scab any more", and he pointed the gun at him and put a bullet right through his heart, I seen the bullet hit him right there (Indicating); and he walked over then to Baskins and used his foot and he kicked him, he kicked Baskins laying right there, and I never seen a move out of the man after he was shot at all. And he came to me and he looked at me and said, "How long have you been down there?" And I said, "I have been down there a couple of days", and he said, "If I had known you were down there, I would have treated you the same way"; and we had a pretty stiff argument. And someone walked up to him, I didn't know him, and said something to him, and he walked on off over the hill, and I sat right down on a big rock with Baskins laying right in front of me. There was a round rock,—well, it wasn't exactly round, but it was a big rock, and I sat on that and cross my legs that way (indicating), and I sat there talking to that fellow with

my coat across my lap, and this other fellow, whoever he was, came up to him and said something to him, I didn't hear what he said, but this fellow went on up the path and over the hill and that is the last I seen of him.

Q. Did the man that was doing the shooting point his gun at you? A. Yes, sir.

Q. Did he fire it at you? A. No, sir.

Q. Were Baskins and Sylsberry both killed by him?

2470 A. Yes, sir.

Q. Was Slankard there at the time they were killed?

A. Yes, sir.

Q. Did Slankard or anybody else of the men that came with Slankard make any statement about what they had done over at the mines, other than what you have already stated? I mean after Slankard and the others came up, was there anything said that you remember?

A. Nothing that I remember of at all.

Q. About what had been done over at the mines?

A. Nothing I can remember, that I can just recall.

Q. Where did you go then after that? Where were you taken after that?

A. Well, now, through the excitement there after these two fellows was killed,—Sylsberry, you might say, was making his last groans when we left, and through the excitement these fellows said to Slankard, "What are you going to do with the rest of these fellows?" And he said, "I don't care what you do with them, turn them loose and let us get out". And they said to us, "You get away from here and don't let us see your face any more", and we cut across Sugar Load Mountain and came back down to the road and came back into Mansfield that night in time to get the train at Mansfield.

Q. Before going on to that, did you recognize anybody besides Slankard?

A. Yes, sir, I identified a man by the name of B. Trout at Greenwood.

Q. Was he there? A. Yes, sir.

Q. Did B. Trout say anything to you or say anything to the man that did the shooting?

A. Not that I can remember of.

Q. Did anybody do anything to the man that did the shooting? A. No, sir, he told us to beat it on over the hill.

Q. Was Trout present at the time the shooting was done?

2471 A. Yes, sir.

Q. Was anything said to you as to what they would do with you if they caught you there any more?

A. Yes, they said that if they caught our faces back there any more they would do to us the same as they did to the rest of them.

Q. Describe the man, as near as you can, that did the shooting?

A. The man that did the shooting was a man that would weigh between 150 and 160 pounds. He had dark hair and wore a blue shirt and black pants like I have got on here (indicating), and if I am not mistaken, he had a belt on.

Q. You stated you went to Mansfield? A. Yes.

Q. Where did you go from there?

A. Into Ft. Smith from there.

Q. Where did you go from Ft. Smith?

A. I went to Drexel, Missouri. This employment agent on Sixth Street,—there was an employment agent there, a heavy set fellow,—

Q. (interrupting). Did you go back down to the scene of the trouble at these mines any more after that?

A. Yes, sir.

Q. When?

A. I went over to Greenwood to go back down there on Saturday and Mr. Little and the other men that were to go with me,—it was kind of late when I got over there and they decided it would not be safe to go down there Saturday night.

Q. That was Paul Little, the prosecuting attorney?

A. Yes. They decided it would not be a good idea to go down there Saturday night and the best thing for me to do would be to come back over to Ft. Smith and come over there early Sunday morning and we would go down on Sunday.

2472 Q. Come over where?

A. Over to Ft. Smith, and I came back to Ft. Smith then and reported to Mr. Finley I wouldn't go down there,—

Q. Don't tell what was said. What did you do on Sunday morning?

A. I went down and got a car and went over to Greenwood.

Q. Then what did you do?

A. We went from there down to Prairie Creek.

Q. What were you going down there for?

A. We were going down to Prairie Creek to look after the men that were killed down there.

Q. Tell what was done after you got down there?

A. We went from here over to Greenwood, and I got Paul Little and that big, heavy deputy sheriff over there, I can't remember his name at all, I think there was four of us in the car, about four that went down there; and we got two men after

we got down there. And in the meantime while I was over there, I told these people where they could look for these fellows and when we got down there, there was two deputy sheriffs down there. I don't know whether it was Bean, or who it was.

Q. When you got down where?

A. At Prairie Creek. We met them down there and when we got to the school house there is a wire line that comes out through the woods and we were coming out that line, and they came up and said to me, "We can't find those fellows no place," and I said, "No, I couldn't find them out there, if you went where I told you to go you would have found them." And he said to us, "You know where it is at, you take the lead," and I said, "Come on;" and we went up there, Paul Little and I, and the deputy sheriffs with me, and we got up there within twenty or thirty feet of the place, or more
2473 than that, and I looked and seen the cabin was not there, and when I got up there I said, "It is burned down," and I left there then and went over with one of the deputy sheriffs, and I showed where Baskins laid, and I showed where Sylsberry laid, and where Sylsberry laid there was a big round place where it looked like a fire had been built. We looked for blood and could not find any. In the meantime Paul Little walked up around the cabin and got to kicking around with his feet, and he said to me, "Mr. Thomas, here is some bones in here."

Mr. Warrum: I object to that, to that conversation this witness had with Mr. Little, as a collateral matter.

The Court: The objection is sustained to the conversation. State what you did and saw.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Q. (Mr. McDonough) State what was done, and not the conversation. State what you saw and what was done?

A. Well, as I say, Paul Little went up there and kicked around the fire.

Q. Did you go up there, too? A. Yes, sir.

Q. What did you find?

A. I went up there and kicked around and I raked out some bones, I raked with my hand and burned the end of my finger and the scar is there to this day. And I raked out a part of a human body, I could not tell whether it was a liver or heart or what it was. I could not say. There was a water bucket there, and we took that water bucket, after the cabin was burned down, the bucket was not all burned, and I took

it and filled that bucket up with bones, and we stayed around there a while and then came on right back down the hollow to where the fire was.

2474 Q. Did you find in those bones any part of a human teeth or jaw?

Mr. Warrum: If the court please, before that question is answered, the defendants separately would like to object to this as an inquiry into a collateral matter not binding on the defendants. It is not alleged that any of the parties there were parties to this conspiracy, and because it is irrelevant and does not throw any light on the issues in this case.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Q. Go ahead?

A. We came on back down the hollow there.

Q. First, did you say what that was? I didn't catch it, if you did. What that bone was?

A. I took it to be half of a jaw, right around here (indicating) with human teeth in it. I carried that in my hand on down the hollow after I had my bucket full, and I put them in the car and went down to the mines and looked around there.

Q. How long did you stay there? A. Not very long.

Q. Was there much of a crowd there?

A. Not many, but they began to crowd in.

Q. At whose suggestion did you get away from there?

A. Why, the deputy sheriff that was with me came up to me and said—

Q. Don't state what he said.

A. There was a remark came to me,—he said, "We had better be getting away," and I said, "Wait a little while," and after a while we went away.

Q. You went away at the suggestion of the sheriff?

A. Yes.

2475 Q. Did you go away with the sheriff?

A. Yes, sir.

Q. Do you know the first name of Mr. Blackburn, the man you mentioned?

A. I don't remember whether it is Ray or Roy. I don't remember his first name.

Cross-Examination

By Mr. Covington:

Q. Mr. Thomas, what time was it that the shooting occurred there that you have told about?

A. Well, I couldn't just exactly answer that, because I don't know; somewhere probably about one, maybe a little after.

Witness excused.

2476 Mr. Hull: If the Court please, we offer the deposition of Leo S. Schell, taken at New York City; both sides being represented by counsel. (Reading.)

"LEO S. SCHELL, a witness called in behalf of the plaintiffs, being duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. What is your full name? A. Leo S. Schell.
Q. Where do you live now?
A. My home now is in Lamar, Colorado.
Q. What is your present occupation? A. Soldier.
Q. What company are you with?
A. Company M, 49th Infantry.
Q. How long have you been in the army?
A. Since January, 1917.
Q. This year. A. Yes.
Q. In 1914, in the spring, where were you living?
A. I was living at Mena, Arkansas, at that time.
Q. Along about the 1st of June, 1914, did you, in company with others, come from Mena and enter some kind of work at Prairie Creek, Arkansas?
A. Well, we came to Fort Smith and was commissioned by the Government there to go to Prairie Creek.
Q. Will you state who got you to go?
A. Well, J. L. Holt was in the field service there.
Q. As what?
A. As Deputy United States Marshal; and I worked with Holt before that on some special occasion, and he asked me if I would accept a commission to go to the mines, and I told him I would.
Q. How many others were with you, from Mena?
A. There was 30 in the bunch that was to go, but part of them didn't go; I don't know just how many.
Q. About how many went with you?
2477 A. I should judge about fifteen to the best of my knowledge.
Q. Name all those you can remember?
A. Joe Parrish, Jim Humes, Robert Jackson, A. H. Bennett, Lee Harriman and there was a druggist there, I don't remember his name, Fred something.

Q. Were you commissioned? A. Yes, at Fort Smith.
Q. By whom?
A. By Chief United States Marshal Mayes.
Q. On what date? A. June 1st.
Q. Did you receive instructions from Marshal Mayes as to your duties at Prairie Creek? A. Yes.
Q. What were those instructions?
A. We were to go to Prairie Creek; and we were told the Government had filed an injunction against the mine property up there, and we were to allow no one to molest the property of the mines.
Q. Were you [commissiones] as a Special Deputy?
A. Yes.
Q. State how many special deputies were with you from Fort Smith to Prairie Creek?
A. I couldn't state the exact number; to the best of my knowledge it was 63.
Q. By whom were you paid? A. The Government.
Q. Where were you paid?
A. In the United States Marshal's office at Fort Smith.
Q. By check? A. Yes.
Q. Do you know what check?
A. A Government check, a check from the Department.
Q. That is the Department of Justice? A. Yes, sir.
Q. State what your duties were at the mines, what you did there?
A. Well, at that time, we didn't do but very little or
2478 anything except they kept a man on guard at each place, and probably there was more than that, but there were guards and they walked the post—they didn't have any certain place—they had no beats to walk; they had to guard at a certain place, that is all, they didn't have any beat.
Q. State whether all but three of the Deputy Marshals were withdrawn at a certain time?
A. I couldn't say just exactly the date they were withdrawn, but they were there only a short time when they were all withdrawn except three.
Q. Who were those three?
A. J. L. Holt, Chitwood and myself.
Q. Do you know about how long it was that they were withdrawn after June 1st?
A. It wasn't more than ten days.
Q. On or about June 15th, do you remember being called over to the Prairie Creek station to meet a train?
A. I couldn't say as to what date it was—oh, it wasn't the Prairie Creek Station.
Q. Where was it?

A. It was individual stop for the mines, right at the crossing of the roads.

Q. Is that what they call the crossing?

A. Or the switch, yes.

Q. About when was it with relation to whether the main body of the Deputies had been withdrawn?

A. They were all gone except that three or four of us.

Q. State what occurred at that time?

A. Well, it was somewhere about 7 o'clock in the evening. I had been sick all day and I was in my tent, and the
2479 train pulled in, and there was quite a confusion there, and they came and told me there was trouble there and asked me to go there; I didn't feel well and I objected at first, but they insisted and so at last I went over there, and Clint Burris and Sandy Robinson were on the train, and Joe Parrish at this time was on the train with a number of others there, and they wouldn't let Parrish and some of the men off the train that were coming to the camp.

Q. Who wouldn't let them off?

A. Robinson and Burris and a number of other miners, I couldn't recall their names. Burris was standing on the platform of the car and he refused to let me enter the train; and there was a Constable from Midland also on there; his name was Fitzgerald, and, when Burris refused to let me get on the train, I pulled my gun and demanded my entrance, and he gave way by being told by some one behind him that it would be best not to refuse. Some one hit this man Parrish and knocked him against the brake chain; I don't know who did that, but he was hit and knocked over against the brake chain.

Q. Did you finally assist the man off the train?

A. Yes.

Q. What language or words did you hear, if any, at that time?

A. Well, I disremember anything that was said in the way of language.

Q. Some days after that occurred did you meet Clint Burris? A. Yes.

Q. And did he and you have some conversation about that incident?

A. A few nights later I was at the Prairie Creek stop, and Burris was on the platform, and he asked me if I remembered
2480 him on the train, and I told him I did, and he said, "You couldn't swear it was me, could you?" And I said, "I sure can;" and he said, "You won't swear it, will you?" And I says, "I sure will."

Q. About June 30th do you remember a time when you and Jim Holt were together and you met Bob Graham and somebody else?

A. I remember meeting Bob Graham, and some larger fellow, I don't remember his name, I knew him at the time, up at the Prairie Creek station one night, but as to being the 30th of June, I couldn't say what date it was.

Q. Was it some time after the body of the Deputies had been withdrawn? A. Yes.

Q. Before what we call the battle of June 17th? A. Yes.

Q. State what was said?

A. Well, there was something said about—Mr. Holt, in a way, asked if they had ever figured on having any real trouble, and this Bob Graham—Clint Burris was present, and Burris turned, and he seen they had printed up there "Remember Ludlow", and Graham says "Yes, it will be just like Ludlow, and you had better bury those God damn rifles or ram them up your ass before we come down.

Q. Where was that sign "Remember Ludlow"?

A. That was right on the platform at the Prairie Creek Station.

Q. Do you know how it got there?

A. No, sir, I do not.

Q. You did not see anybody put it there? A. No, sir.

Q. What did Clint Burris say about it?

A. He just said—let me see, how did he say it—he just pointed to it and referred to it, that it would be just like Ludlow there.

Q. Do you remember one night when you were on duty there with Holt and Chitwood when some of the men
2481 that were out guarding came in with a fellow named Nick Birckell? A. Yes, I remember that.

Q. State what occurred that night in detail?

A. Well, I don't remember what day it was or anything like that, but it was about 9 o'clock in the evening, and I was sitting up there talking to one of the guards, and I was dressed in a white shirt, and several shots were fired and they came close to me, and the guard told me I had better get on a black shirt; and I went on my way to the tent and on my way back, before I reached the tent, there was quite a lot of shooting up by the Union Hall where the other guards were—

Q. (Interrupting) What other guards?

A. Charlie Cheek and Harry Dunlap; and, a few minutes after reaching my tent, Dunlap and Cheek came in with this man; I don't remember what his name was, but they said they caught him up at the High Tension Line.

Q. Where was that High Tension Line?
A. Up by the Union Hall.
Q. How far from the mine?
A. I don't know, about a quarter of a mile I think, something like that.
Q. Do you know what was done with that man they brought in? A. He stayed there that night.
Q. Do you know whether he went to Fort Smith the next morning?
A. I couldn't say whether he did or not.
Q. How long before that had Charlie Cheek and Harry Dunlap gone out, if you know?
A. Well, at least two hours.
Q. What were your duties there with Holt and Chitwood?
A. After the other Special Deputies were withdrawn, we were a peace party; we were supposed to keep the
2482 place among the boys as much as possible.
Q. Do you remember the day of the battle?
A. Yes.
Q. Do you remember one night, three or four night before that, when there was some shooting in Frog Town?
A. That was some time before the battle, probably a week or longer.
Q. State all that occurred from your knowledge at that time?
A. Well, some time about midnight, or probably later, I couldn't say, there was quite a bit of [shootinvoger] past the No. 3 shaft, which they said was in Frog Town—I don't know.
Q. You couldn't say what they said? Did it come from the direction of Frog Town? A. Yes.
Q. Where were you when you heard that shooting?
A. I was in my tent.
Q. Who was with you? A. Holt and Chitwood.
Q. Where were the guards, if you know, at that time?
A. There was one up in camp there, between No. 3 and No. 4, and the rest of them was over at the Fan House, and there was two at the Fan House, and one up at the High Tension Line.
Q. Did you and possibly one of the other Deputies, and, if so, state who it was, immediately after that shooting, make the rounds of the guard post?
A. Right away after the shooting, J. L. Holt and I did.
Q. What did you do and what did you find?
A. We found the guards all on their posts.
Q. How long after the shooting was that?

A. Just as quick as we could do it, right away.
Q. Had sufficient time elapsed between the time of the shooting, when you made the rounds and found the
2483 guards on their posts, for them to have returned from Frog Town? A. No, sir.
Q. How many guards were there out that night?
A. There must have been about four.
Q. Were there two shifts of guards? A. No, sir.
Q. Were there not more than four guards in that camp that week?
A. The guards had just been cut; there were so many during the day and so many during the night.
Q. Then there were two shifts of guards?
A. There were two shifts, in that way.
Q. Where were the guards that were not on duty?
A. They were in camp.
Q. Did you ever know or hear of any of the guards going into Frog Town and shooting up the place? A. No, sir.
Q. Did you ever go over there and shoot up Frog Town?
A. No, sir.
Q. Now, coming to the day of the battle, state all that occurred to your knowledge?
A. About midnight on the night of the 16th, the lights went out and the whistles all around through Huntington, all the whistles you could hear was all blowing, and there was quite a disturbance throughout the country. About four o'clock the first volley of bullets was fired from the road, I suppose it would be, on the west side of the camp.
Q. Was that the road that went into Huntington?
A. Yes; they were fired from the Huntington road into the camp, and there must have been about a hundred shots exchanged at the time.
Q. You say "exchanged", were there any shots fired from Mine No. 4? A. Yes.
2484 Do you know who fired those shots? A. No, sir.
Q. State what you remember next?
A. Well, everything got real quiet and we had breakfast about six o'clock, and Bud Eustace came to me and asked if I would go with the electrician out to the High Tension Line to see if we could find a break. I told him I would, and we went, E. L. Harriman and I. Later, about two hours, Bud Eustace and Buster Moore came to me, either in an automobile or a buggy, I don't remember which, and told me that they were coming in and told me to get back to camp, and I went.
Q. Then what happened? A. Then it was a battle.
Q. How long did that battle last?

A. Well, I suppose, from about 9 o'clock to somewhere between twelve and one.

Q. Where were you all that time? A. At No. 4 Mine.

Q. State whether or not you saw or felt, or both, an explosion? A. Yes.

Q. About what time was that?

A. Sometimes about an hour after the battle started there was a heavy shock from below; we were standing almost over the tipple, just to one side of the tipple.

Q. Was that near the shaft? A. Yes.

Q. Of No. 4?

A. Yes, and there was a heavy explosion, and an awful gust of smoke and dust came up the shaft from below.

Q. Do you know where that explosion was?

A. No, sir, I do not; it was under the ground somewhere.

Q. Do you know whether No. 3 slope was connected with another slope under ground? A. No, sir—they said it was.

Q. You cannot tell what they said; state what you know?

2485 A. Well, I do not know that.

Q. State whether or not you saw any smoke and flames in buildings, or anything burning, during the morning?

A. Yes, sir; I saw No. 3 outfit burning.

Q. When did that burn?

A. Sometime in the forenoon.

Q. Where were the shots coming from, from the outside of the Mine?

A. Well, during the beginning, from the east.

Q. Where was the east, toward what town?

A. Hartford, and over by the Union Hall, just a circle from up in the direction of No. 3, around to the Union Hall and the railroad.

Q. The Union Hall is what is called the School House, isn't it? A. Yes.

Q. Did you see men out around the outskirts that morning? A. Yes.

Q. How many men do you suppose you saw outside of the Mine? A. I couldn't say.

Q. Did they have guns? A. Some did and some didn't.

Q. When did you leave the Mine?

A. I don't understand your question.

Q. When did you leave No. 4, during or after the battle was over?

A. It must have been between 12—between 1 and 2 o'clock.

Q. Do you know whether the rest of the employes had left at that time? A. There wasn't any in sight.

Q. Do you know whether Buster Moore and his crowd had left before you left? A. They had.

Q. As you were leaving state what you saw?

A. Well, I saw a body of men come in; they were in
2486 all around the office at the time I left.

Q. Were they employes or men from the outside?

A. No sir; they were Union men.

Q. State where you went then?

A. I went to a spring on the Huntington Road, something like half a mile, and stopped and got a drink.

Q. Were they what you call Union men coming into No. 4 at the time? A. Yes.

Q. Do you know how many there were at that time?

A. I don't know how many there were; they were coming in bunches from every direction at that time.

Q. Was there any noise? A. Quite a bit of shooting.

Q. Then where did you go?

A. I went to the tent near to the miners' camp and got lunch.

Q. State whether or not at about this time or some time afterwards you saw No. 4 burning?

A. It must have been an hour later, and, after I had overtaken a bunch with the women and some man was with them, we stopped to rest, and we looked back and we saw flames on No. 4 coming up.

Q. I neglected to ask you about the withdrawal of the three Marshals, you and Chitwood and Holt just prior to the battle, will you state the facts about that?

A. On the 15th day of July we were called in, and our commission expired that day; and Holt went home.

Q. Where did you go?

A. I went back to the mines on the evening of the 16th.

Q. In what capacity? A. In an automobile.

Q. In what capacity?

A. To hold Holt's job for him until he came back on Sunday.

Q. Holt was to be employed by the Company? A Yes.
2487 Q. Holt never did get back, did he? A. No.

Q. Were you in Fort Smith on the Sunday after the battle? A. Yes.

Q. Did you see Dr. King in Fort Smith? A. Yes.

Q. State what he said to you and what occurred?

A. Well, on the evening of the 17th I turned over to him some guns.

Q. On the day of the battle? A. Yes.

Q. Where were you when you turned them over to him?

A. Out at the outskirts of Hackett City. It was light and I gave him the guns with the understanding that I was to receive my guns the next morning.

Q. What was he doing out there? A. I don't know.

Q. Then you saw him again in Fort Smith on Sunday?

A. Yes.

Q. After the battle. A. Yes.

Q. What occurred then?

A. I asked him for my guns, and he said that the garage where he had left them had been broken into and they had been taken; and I then requested of him one special gun that I had; and he said he would go after my gun later when some man came in from the ball game that had the keys. And when this fellow came in I went around to the garage with him, and there was three special duty men, detectives—Homer Shaw was one of them—I can't recall the other names.

Q. Were they city detectives? A. Yes, sir.

Q. Who else was there?

A. One of them was—I don't know what he was—he was a detective for the mine outfit.

Q. What was his name, do you know? A. Shaw.

2488 Q. Who else was there, was Dr. King there?

A. Dr. King was at the garage; he went around to the garage ahead of us.

Q. Where did you see these detectives?

A. They were outside of the garage between two buildings.

Q. What occurred?

A. When I came out, with my bag, with my guns in it, they stopped me and searched me and demanded that I should turn over the guns to them; and I refused, and they were going to take my grip, when I put my foot on it, and he told be to open it, and I opened it.

Q. Who was it that made you open it?

A. Shaw; and he was going to take the guns, and I refused to give him the guns and he reached in the grip, and so did I; and we both had hold of the guns at the same time; and the Mayor came around, and several of the Fire Department boys was with him and his wife in the car; and Shaw told the Mayor that he had orders from Judge Youmans to take charge of those guns; and I told him if he had an order from Judge Youmans, we would both go there and see why he did it; and the Mayor told me I had better come; and so he told me I had better take the damn guns and throw them in the river.

Q. What did Dr. King say to you when he gave you the gun at the garage?

A. He told me, he said "You had better put it on."

Mr. Neal (reading):

"Cross-Examination

By Mr. Covington:

Q. You say you went back to the mine on the evening of the 16th A. Yes.

Q. And you went on duty there for the Coal Company?

A. No, sir.

2489 Q. What were you doing there?

A. I merely went out there to stay until Holt came there Sunday.

Q. Holt was going to take the job then? A. Yes.

Q. You were there in Holt's place?

A. I was going to stay there for Holt Sunday.

Q. What were you going to do for Holt when you were there?

A. I didn't do a damn thing because I didn't have time.

Q. You had time to obey the orders of the Company, didn't you? A. I had no orders from the Company.

Q. What did you do there?

A. I told you I didn't do a damn thing; I just went there and stayed there.

Q. Did you do two damn things? A. No, sir.

Q. Did you do three damn things? A. No.

Q. How far is it from Mine No. 4 shaft to No. 3, where you say the guards were stationed on the night that Frog Town was alleged to have been shot up?

A. They were stationed up on the hill at the camp.

Q. How far is that from Mine No. 4?

A. I supposed it was a quarter of a mile from the shaft.

Q. Do you know who was on duty at that place on the night you say you heard the shots at Frog Town?

A. Pat Malloy was at that place.

Q. Who else? A. That is all.

Q. What other points were guarded that night?

A. There was two guards at the Fan House.

Q. Who were they?

A. A fellow by the name of Bennett and one by the name of Morgan.

Q. What other point or points were guarded?

A. The High Tension point and Union Hall.

2490 Q. Who was guarding that point? A. One man.

Q. Who was he?

A. I disremember who was on that night.

Q. Did you hear any shots fired that night, about midnight? at Frogtown?

A. I heard some shots, I don't know where they were.

Q. They were in the direction of Frog Town? A. Yes.

Q. And you got up immediately, you say, you and Holt?

A. I hadn't gone to bed.
Q. What time of night was it?
A. Well, it was any how midnight, probably later.
Q. Now, did you leave your tent? A. Yes.
Q. Where did you go? A. I went to Pat Molloy.
Q. Up at the Fan Hause? A. No, sir.
Q. At what point?
A. Between No. 4 and No. 3, up on the hill, at the old mine camp.
Q. What [dod] they call that camp?
A. I don't remember any name for it.
Q. You found Pat Molloy all right there, did you?
A. Yes.
Q. Then where did you go?
A. I went over there to the Fan House.
Q. Whom did you find there?
A. I found Morgan and Bennett.
Q. They were there all right?
A. One of them was asleep, yes.
Q. Which one was asleep? A. Bennett.
Q. In the house? A. No, sir.
Q. Out on the ground? A. Yes, sir.
Q. Then where did you go?
A. I went across to the High Tension Line.
Q. Whom did you find there?
A. I told you I didn't remember who that fellow was
2491 that guarded there.
Q. Then where did you go? A. Back to my tent.
Q. And you remained there the remainder of the night?
A. Yes, sir.
Q. You have named all the places that you visited that night? A. Yes, sir.
Q. And those are all the men that you saw that night is that right? A. No, not all the men I saw that night.
Q. On your rounds?
A. There was a bunch of miners there in the camp; the employees there had never gone to bed; they were gambling in the office.
Q. You don't mean to say that the crowd out at Prairie Creek would gamble, do you? A. That is what they call it.
Q. They played for money? A. I guess it was a pastime.
Q. Well, they were playing poker for money, were they not?
A. Well, I don't know that that has anything to do with this part of it.
Q. Then you refuse to answer, do you?
A. No, I do not refuse to answer.

Q. Well, answer, then—they were playing poker for money, weren't they?

A. I couldn't say whether they were playing for money or not; they said they were gambling.

Q. Did you recognize any of them that were up at that time of night, 12 o'clock? A. How was that?

Q. Did you recognize any of them that were up at that time of night, aside from the guards?

A. No, sir; I didn't pay any attention to it.

Q. You didn't pay any attention to it? A. No, sir.

Q. You went back to bed, didn't you?

A. After we came in, yes.

2492 Q. About how many employes were there at the Mine on this particular night, if you know?

A. Well, I should judge about a hundred.

Q. Did you see Charlie Prince that night?

A. I don't remember.

Q. Did you see Harry Dunlap that night?

A I don't remember.

Q. Did you see Jim Prince?

A. I don't know Jim Prince.

Q. You don't know who went out that night, do you, Mr. Schell?

A. Well, it is an evident fact that they couldn't get out, for they ran them back as fast as one of them tried to get back, any time.

Q. But you, in fact, do not know who went out that night and who had guns out that night, do you?

A. I don't know that there wasn't any out, but I know that there wasn't any of the guard out.

Q. How far is it from the Fan House to Frog Town?

A. From the Fan House to Frog Town?

Q. Yes?

A. Well, to the best of my knowledge it must have been about two miles.

Q. How far is it from where you were stationed up to No. 3 the slope? A. I think they call it one mile.

Q. They had a great many guns around the mine, there, didn't they? A. Yes, quite a few guns.

Q. You had a lot of high-powered rifles there, didn't you?

A. Yes, we had high-powered rifles.

Q. And you had a great many revolvers there, didn't you?

A. I don't know how many revolvers were there.

Q. Were you there on the second night that Frog Town was alleged to have been shot up? A. I disremember.

Q. You were there continuously from the 10th of June
2493 up to the 15th of July, were you not, and then returned on the evening of the 16th of July and remained there until after the fight was over on the 17th of July; is that right?

A. Well, there was one night, probably as late as June 12, I was at Fort Smith; that was when the withdrawal of the body of Marshals was taken away from the mine.

Q. You were not bothered while you were out there either as a marshal or as a private citizen, were you? A. Why, no.

Q. They never interfered with you at all, did they?

A. The only thing they would do would be to make some little slurring remarks; and they refused to sell us anything in the towns or anything like that; that is the only way we were molested.

Q. Where did you go after leaving Mine No. 4, on the 17th of July?

A. I went from the Mine down to the spring and stopped there and got a drink of water.

Q. Who was with you? A. I was alone at that time.

Q. You, then, were the last man leaving the mine, were you? A. I was the last one of our bunch that I saw.

Q. Where were you with reference to the shaft where you started away from there for good?

A. I was over between the cars in front of the shaft.

Q. What were you doing? A. Nothing.

Q. Were you not shooting? A. No, sir.

Q. Didn't you shoot any that day?

A. I don't remember—sure, I used my gun that day, but not at that time.

Q. Did you have anybody with you over at these cars
2494 at any time while you were there?

A. Buster Moore was with me part of the time and Bud Eustace was with me part of the time.

Q. What time did Moore and Eustace leave you there at the cars?

A. Well, they hadn't been gone but a few minutes when I left.

Q. Did you see Pat Molloy there at that time?

A. I didn't see him at that time, no.

Q. Did you see Johnnie Molloy there?

A. I don't remember him at all.

Q. You don't remember the brother of Pat Molloy, the one they called Johnnie?

A. No, sir, I don't believe I remember him.

Q. Did you see Charlie Cheek that day?

A. I couldn't say.

Q. What time in the afternoon was it when the two guards brought Nick Birkcell into camp and held him, as you stated?
A. Well, it was somewhere I should judge between 9 and 10 o'clock at night.
Q. I believe you stated they were shooting at you just before they brought him in, that is, shots were flying around you? A. Yes, sir.
Q. And they told you to go in, that they were shooting at your white shirt?
A. One of the guards made that statement.
Q. There was a great deal of shooting there when these guards came in with Birckell? A. Yes, several shots.
Q. Birckell was held there all night, wasn't he?
A. No; he was not in a way, but he was in a way.
Q. Didn't they put him in a tent and didn't some of them sit up there and guard him? A. No, sir.
Q. You were a United States Marshal at that time, were you not? A. Yes.
2495 Q. Why didn't you as an officer of the Government, being placed there, you say, to keep the peace, why didn't you require them to release that man?
A. We had no authority to take prisoners or to turn them loose.
Q. You had no authority to take prisoners or turn them loose? A. No, sir.
Q. Was that authority conferred upon the Coal Company's agents, or any power you know of, to arrest people and hold them? A. I know nothing of that.
Q. Did you remain around where they held Birckell at that time? A. I went to sleep.
Q. And was he held in your tent? A. No, sir.
Q. Where was he carried?
A. He and Charlie Cheek was out in front of the tents when I went to bed; and when I got up the next morning at 5 o'clock, or something near that hour, they were both laying side by side asleep.
Q. Did not Birckell appeal to you that night to have him released? A. No, sir.
Q. Did he not appeal to the Superintendent, in your presence, to let him go home to his old mother, who was there by herself? A. I don't remember that.
Q. Were you one of the parties that carried him into Fort Smith the next day? A. No, sir.
Q. Who did carry him to Fort Smith the next day, if he was taken in by anyone? A. I don't remember.
Q. By way of refreshing your memory, is it not a fact that he was carried to Fort Smith the next day in an automobile

and was accompanied by three or four of the guards down there at No. 4, that is, didn't they leave the camp with him in a car?

2496 A. No, sir, I can't say that any one—

Q. (Interrupting.) Can you say that you did not?

A. Yes; I say I didn't see him.

Q. Did you see him just before they started?

A. I saw him at breakfast.

Q. Where? A. In the Mess Hall.

Q. Who was with Birckell there?

A. Charlie Cheek; he was sitting by Charlie Cheek, and Chitwood was there.

Q. Was Chitwood a United States Marshal then?

A. Yes.

Q. Who was in charge of the Marshal force down there, who was directing the force that was sent down there to preserve order, as you say?

A. Who was directing the three of us?

Q. Yes?

A. Mayes was until his time expired, and then Parker was.

Q. You don't mean to say that Parker had anything to do with you and Chitwood, do you?

A. We were withdrawn two days later after Parker went in the office.

Q. Two days after Parker went in the office you were withdrawn? A. We were called in.

Q. By Parker?

A. By Mayes or Parker, I don't know which.

Q. But two days after Parker assumed the duties of the United States Marshal's office, you were called in from Prairie Creek? A. Yes.

Q. Up to that time who were in charge of you down at the Mine,—who were directing you there? A. J. L. Holt.

Q. And after you were withdrawn, two days after Mr. Parker assumed the duties of the office of the United

2497 States Marshal, you went back to the Mine and represented Mr. Holt, that is, you went back and held his job for him, as I understand you, until he could return in person?

A. I went out on the evening of the 16th to stay for him until Sunday.

Q. Well, now, were you just to stay around the Mine?

A. That is all I was to do, just to stay out there.

Q. You had your gun, did you? A. No, sir, I did not.

Q. You did not carry out any gun?

A. Yes—I had my gun, sure I had a gun.

Q. Then, you were neither an officer of the Government or of the State or of the County, were you? A. No, sir.

Q. What were you doing out there, helping Mr. Holt, when you were not acting for the State, the County or the Government? A. I was not wearing any gun.

Q. What kind of a gun did you have?

A. I had a six-shooter.

Q. Did you carry it in your hand?

A. No, sir; in a traveling bag.

Q. Did you travel on a train or in a car?

A. In a car.

Q. Who drove you out there? A. Finley.

Q. Who is Finley?

A. He is the Auditor of the Company, I suppose.

Q. He is now Receiver of the plaintiff Companies here, is he not?

A. He was the Auditor at that time; that is the way I understood it.

Q. He carried you out there? A. Yes.

Q. Did he know what you were going for? A. Yes, sir.

Q. Where did you go with him? A. At the Hotel Main.

Q. Was it the morning or the afternoon of the 16th of July that you started from Fort Smith?

2498 A. It was after the train had run that evening, very late.

Q. Did you do any work for the Company after the 17th of July, 1917?

A. Did I do any work after the 17th of July?

Q. Yes? A. I made one trip for them.

Q. Where? A. To McCurtin, Oklahoma.

Q. What for?

A. I went down there to see a party for him that wasn't there.

Q. Whom did you go to see?

A. A man by the name of Cal Jones, who was a coal digger?

Q. Where was Cal Jones from? A. He was at Williams.

Q. Did he live at Williams? A. I couldn't say.

Q. Cal Jones—do you know him as a coal digger or a detective? A. I knew him as a coal digger.

Q. Didn't you know him as a detective?

A. No, sir; that is a man that is no detective.

Q. He is no detective?

A. No, sir, he is no detective; he is a hard working miner.

Q. A Union Miner? A. Yes, sir.

Q. Where did he work at that time?

A. He didn't work at all.

Q. Where had he been working prior to that time?
A. Well, he had worked in Colorado, the last work he did up to that time.
Q. When, in what year?
A. I couldn't say; he was a physical wreck at this time.
Q. Were you personally acquainted with him before that? A. Yes, sir.
Q. Where did you first meet him, Cal Jones?
A. I have known him from childhood up.
Q. You were old boy friends?
2499 A. He is an old coal digger, and I have known him all my life.
Q. You didn't go to see him? A. No, sir.
Q. Have you ever seen him from that day? A. No, sir.
Q. Did you ever make any further search for him?
A. No, sir.
Q. How many days did you work for the Company looking up Cal Jones?
A. I went out one day, and stayed over the next day, and I came back the next day, to the best of my knowledge.
Q. And did that end your employment by the Company?
A. Yes.
Q. Who employed you to do that work?
A. Franklin Bache.
Q. Who is Franklin Bache?
A. I don't know just exactly who he is.
Q. Is he the head and front of the plaintiff Coal Companies who are suing here? He was at that time.
Q. Did you ever see Holt any more after you went out of the job of representing him down at Prairie Creek?
A. Yes, sir.
Q. How many of the men who were appointed United States [oficers], deputies, went down to Prairie Creek—how many of them went into the employ of the Company immediately after their commissions as Deputy Marshals expired besides Holt and yourself? A. I believe three.
Q. Have you ever been engaged in the conduct and operation of a coal mine? A. No, sir.
Q. Did you ever work at a coal mine? A. No, sir.
Q. Were you ever around a coal mine before, until you were sent down to Prairie Creek?
A. Why, I lived in a coal camp, or a little town where there was a coal mine, close by.
Q. Where?

A. What is the name of the town down there—Potatu—Widdeville, is the name of the town.

2500 Q. Before you went into the army what was your occupation? A. I was a bricklayer.

Q. What was your occupation at the time you went to Prairie Creek as a Deputy United States Marshal?

A. Bricklayer.

Q. Where were you at work? A. At Mena, Arkansas.

Q. Were you raised in that section of the country?

A. No, sir.

Q. Where were you raised?

A. Pretty well all over the country.

Q. Could you give me a starting place? A. Yes.

Q. Where?

A. Danville, Kentucky, was the place of my birth.

Q. How old are you? A. 27 years old.

Q. When did you leave Danville, Kentucky?

A. I left Danville, Kentucky, when I was nine years old.

Q. Where did you go?

A. To San Francisco, California.

Q. How long did you remain there?

A. I remained at San Francisco until I was 13 years old.

Q. Where did you go then? A. I went to Colorado.

Q. What part of Colorado? A. The eastern part.

Q. What town? A. Lamar.

Q. How long did you remain there?

A. Well, I couldn't say; I was in and out of there for about three or four years.

Q. Then where did you go?

A. Well, I lived in different sections of Arkansas and Oklahoma."

The Court: Is it not possible to cut out some of this; it is immaterial to any possible theory on cross-examination.

Mr. Hull: We don't press any of the rest of this deposition.

2501 The Court: We are going on here indefinitely, accomplishing nothing.

Mr. Neal: Just a moment, there is another place in here I think we want to read.

The Court: Very well.

Mr. Neal: No, we will waive the remainder of the cross-examination.

2502 JOHN LAWS, called as a witness on behalf of the plaintiffs, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. What is your name? A. John Laws.

Q. What is your present position?

A. Secretary and Credit man of the Atkinson-Williams Hardware Company.

Q. Atkinson-Williams Hardware Company of Fort Smith? A. Yes, sir.

Q. How long have you held that position?

A. Fifteen or twenty years; fifteen years.

Q. You were holding it in 1914, in June? A. Yes, sir.

Q. Have you in response to a subpoena deuces tecum, served on you in this case, produced certain records of your company? A. Yes, sir.

Q. Kept under your control and custody? A. Yes, sir.

Q. Will you produce certain order sheets, covering shipments or orders of guns and ammunition shipped to John Mastell or Oscar Layton in the month of June, 1914. Is there an order there of June 10th?

A. I have an order of June 10th shipped to John Mastell, shipped to Prairie Creek, Arkansas; that was shipped out of stock.

Q. Do you remember how that order came to your office? A. It was 'phoned in by our traveling man.

Q. Mr. Morgan? A. Mr. Morgan.

Q. This is the original order sheet?

A. Yes, sir, and the shipment was made from that sheet.

Q. Will you detach that from your book and let it be
2503 offered as an exhibit in this case?

A. It is a little hard to do, but I guess I will have to do it. I will have to cut it out.

Q. Will it tear out? A. Yes, sir, it will tear out.

The Court: Is that part of the permanent records of this firm?

Mr. Warrum: I think that they would be entitled to keep their own records.

Mr. Hull: If you would rather not have it taken out of this record all right.

The Witness: Of course, I would rather not.

The Court: It may be read into the record, or a copy substituted.

Q. Have you this same form now? A. Yes, sir.
Q. Will you furnish me with three or four copies of this, and I can have it copied and return this to you?
A. Yes, sir.

Mr. Hull: We wish to offer this in evidence.

Mr. Warrum: To which the defendants separately object for the reason that it is a transaction made by a party not defendant herein, and is not charged with being in the conspiracy, and is not binding upon the defendants.

The Court: The objection will be overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Mr. Hull: I want to ask that the paper I just referred to marked Plaintiff's Exhibit 54.

(The paper referred to, marked Exhibit 54, is in words and figures following, to-wit:)

Mr. Hull: I will read this to the jury, it is on the order sheet blank of the Atkinson-Williams Hardware Com-
2504 pany, Fort Smith, Arkansas; sold to John Mastell, Prairie Creek, Arkansas, 3 25 Cal. Rem. Auto rifles #8-A $23.00, $69.00 5691.

2 30 Cal. Rem. Auto rifles	#8-A	$23.00	$46.00	3794
2 35 Cal. " " "	#8-A	23.00	46.00	3794
540 25 Cal. " " Ctgs.		2.81	15.18	1242
Pd. Frt.		.37	.37	
1 box guns and S.A.A. 122#			176.55	

Lawrence.

Q. You stated I believe, that that order was telephoned in by Mr. Morgan? A. Yes, sir.
Q. Have you an order there of June 17th,—please state the next order.
A. June 13th. This was June 10th, and I have one on the 13th.
Q. Will you please state how that order came into your office?
A. That was mailed in by our traveling man, Mr. Ed Morgan, and he had made a notation on the bottom of it that it had been ordered by express from the factory. It says, "Expressed from factory to Hartford, Arkansas".
Q. And that was shipped by the Remington Arms Company of New York? A. Yes, sir.

Mr. Hull: We offer this order sheet of June 13th, 1914, in evidence.

Mr. Warrum: To which the defendants separately object for the reasons heretofore given.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Mr. Hull: (Reading.) (On the order sheet of the Atkinson-Williams Hardware Company, Fort Smith, Arkansas.

2505 Shipped to John Mastell, Hartford, Arkansas, June 13, 1914.

10 25-35 Rem. Auto Rifles, $23.30, $230.00 $189.75

Expressed from factory to Hartford, Arkansas.

Q. Referring to your books of account, Mr. Laws, can you state when and how those two invoices were paid?
A. $176.55 was the other one, and this was $230.00; that was paid on June 18th of the same year.
Q. Is the ledger entry posted in your handwriting?
A. I will see in a moment, I think possibly it is. Yes, sir, the cash book entry is in my own writing.
Q. And will you state what that entry is, just read it in to the record, giving the date and the page number.

Mr. Warrum: The defendants separately make the same objection.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

A. June 18, 1914, I received a check for $398.42, on which was allowed a credit of 2% for cash, making a total credit to John Mastell of $406.55.
Q. Will you state what that total credit of $406.55 covered?
A. It covered these two orders that we have just read.
Q. Will you state what the item of $398.42 covered?
A. That was the net amount after deducting 2% for cash.
Q. It covered those two invoices, discounted at 2%?
A. Yes, sir.
Q. Do your records show the bank upon which, or the conditions upon which that check was drawn, or that draft?

A. Yes, sir, I think so.
Q. Reading from your bank deposit slip, will you state,—

2506 Mr. Warrum: The defendants separately make the same objection.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

A. On June 18th, 1914, I deposited with the First National Bank a check drawn on McAlester, Oklahoma, for $398.42.
Q. You don't know whose check that was? A. No, sir.
Q. There is no notation there as to whether it was a check or draft?
A. No, sir, it just says McAlester.
Q. Will you find from your records the next order sheet, ordering goods shipped to John Mastell or Oscar Layton?
A. June 22nd, shipped to Oscar Layton, Hartford, Arkansas.
Q. State, so the jury can hear it. Will you state how that order came into your office?
A. It was mailed in by our traveling man, Mr. Morgan.

The Court: Has this to do with the shipments that were referred to by the witness yesterday, in the deposition?

Mr. Hull: In the deposition by H. P. Hill, and is to be followed by Mr. Morgan, that sold the goods.

A. This order was mailed in by Mr. Ed Morgan.
Q. Why was some of these notations at the bottom crossed out, if you know?
A. That is so that the bill clerk, would not put those notations on the bottom of the order. They are things that are not necessary for the bill clerk, and are usually scratched out, so they won't be put on the invoices. It is just for the office information, when they are turned in by Mr. Morgan.
Q. But these notations were on the invoice when
2507 turned in to you by Mr. Morgan? A. Yes, sir.

Mr. Hull: I offer this, being a bill heading of June 22nd, 1914, Atkinson-Williams Hardware Company.

Mr. Warrum: The defendants separately make the same objection.

The Court: Objection overruled.

To which ruling of the Court, the defendants and each of them, at the time duly excepted and still except.

Mr. Hull (reading):

10	#14-A Cal. Rem. Repeat. Rifles..	$16.50	$165.00	$140.25
3500	25 Rem. Auto. Cart. M. C....	2.81	98.35	
1000	30 " " " " " ..	3.23	32.30	
500	35 " " " " " ..	3.57	17.85	
200	32 " " " " " ..	3.23	6.46	
100	30 Springfield 1903 Model.....	4.68	4.68	163.42
1000	45-70 Government 405 Gims....	3.83	38.30	.
			362.94	303.67

H. B. Hill wired this to the factory for me. By express, be sure and hold this invoice for me.

The Witness: Up above you can see who it was shipped to.

Q. I read that. Will you state how that shipment was paid for?

A. On July 1st, 1914, we received a check for $355.68.

Q. Did that cover this invoice discounted at two per cent?

A. Yes, sir.

Q. Can you tell from your bank deposit slip on what bank that check or draft was drawn?

A. On July 1st, I deposited in the First National Bank, check drawn on McAlester, for $355.68.

Q. Can you state, Mr. Laws, whether or not that first
2508 shipment of seven guns of June 10th was shipped out of your stock? A. It was.

Q. And you know that it was shipped to John Mastell?

A. Yes, sir.

Q. And the other shipments, as I understand it, were shipped from the Remington Factory?

A. The other two were, yes, sir.

Q. But all on orders from your salesman, Mr. Morgan?

A. Yes, sir.

Mr. Hull: That is all.

Mr. Warrum: No questions.

2509 HENRY EDWARD MORGAN, called as a witness on behalf of the plaintiffs, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name, please?

A. Henry Edward Morgan.

Q. What is your present occupation?

A. Traveling salesman.

Q. For whom?

A. The Atkinson-Williams Hardware Company.

Q. You were in that same capacity in June 1914?

A. I was.

Q. How long had you been there?

A. About four [yearsn].

Q. Do you remember certain orders given to you by Fred W. Holt, Secretary of the United Mine Workers of America of District 21? A. I do.

Q. Will you state to the Court and jury when you first saw Mr. Holt in regard to those orders?

A. I saw him about, just a short time prior to the riot.

Q. By the riot you mean—

A. Prior to the riot.

Q. You mean the battle of July 17th?

A. Yes, sir, I went to his office in the Arnold Building.

Q. What building?

A. The Arnold Building, I think it is.

Q. In what city?

A. In McAlester, Oklahoma, and asked him if he was going to need any arms and ammunition, and he told me at that time he was very busy, but would like to see me a little later, if I could wait a few minutes, that he would talk to me. I waited in his outer office for a few minutes, and later he called me, and I went into his private office, and he asked about the prices of guns and ammunition, and so forth, and I quoted him the prices, and he told me that he would
2510 more than likely be able to use a few, I think, but he didn't know exactly about the shipment, and asked how many we had in stock, as I remember it, and I told him that I couldn't tell him off hand how many we did have, but that I would have to 'phone Fort Smith and find out.

Q. Did he say how he wanted them shipped?

A. He said he would more than likely have to have them shipped to Hartford, Arkansas, but he didn't say who to.

Q. Did he say anything about how to mark the boxes?

A. He asked if it would be possible to have them expressed with plain notation on the boxes, without any notation of the contents.

Q. What did you say as to that?

A. I told him I thought we could, but I didn't know about the interstate laws, but that I would do my best.

Q. Did you telephone to your firm in Fort Smith?

A. Yes, sir.

Q. How many guns did you find there was in stock?

A. I believe there were seven, I am not sure.

Q. Did you report that fact to Mr. Holt?

A. Yes, sir.

Q. And did he order those guns? A. He did.

Q. I will ask you if those are the seven guns invoiced in Plaintiffs Exhibit 54, of June 10th, introduced by the preceding witness? A. They are.

Q. And did he also buy some cartridges for those guns?

A. He did.

Q. And they are also invoiced on the same sheet?

A. Yes, sir.

Q. Did he order some other goods at the same time?

A. He did.

Q. State what occurred in that connection.

A. I think it was in the afternoon that I went back,
2511 and he gave me this order, and in addition to the goods that we had in stock, he gave me an order for a case to be shipped directly from the factory to Hartford, Arkansas.

Q. Did he, when he was first discusing the shipment of these guns, tell you anything about the difficulty of shipment?

A. As I remember, he said he didn't like to 'phone Hartford, as there was a leak somewhere, he believed there was a leak at Hartford on the telephone.

The Court: What is a case, I must confess my ignorance, I don't know.

A. A case is ten guns.

(By Mr. Hull):

Q. I will go into that in a moment. That was in connection with his finding out where to ship those guns?

A. Yes, sir.

Q. Did you tell him how they could be shipped, and how the transaction could be carried on your books?

A. I told him, as Mr. Hill, the factory representative was in McAlester at the time, that I thought I could take it up with Harry, and have Harry wire the factory to make the shipment in plain boxes, to anyone that he designated at Hartford.

Q. Did you tell Mr. Holt how the account could be carried?

A. I told him we had an account with John Mastell at Prairie Creek, or Hartford, and that we could use his name in that connection; that we had an account with him, and had had for some time, and was selling him guns and ammunition.

Q. Did you say something about carrying Holt's name on your books?

A. I don't remember more than I told him it was not necessary for his name to appear on our books.

Q. Now, in regard to that additional order for a case of guns, state what Holt said in regard to the order of ten more guns.

2512 A. I don't remember now the conversation.

Q. Did he order ten more guns?

A. Yes, sir, he did.

Q. And that was on the same day?

A. Yes, sir, they were ordered expressed from the factory.

Q. Referring to the order sheet introduced by the preceeding witness, dated June 13, 1914, invoicing ten 25-35 Remington Automatic rifles at $23.00, $230.00, I will ask you if that is in your handwriting? A. Yes, sir, it is.

Q. And you mailed that order into your home office here at Fort Smith? A. Yes, sir.

Q. And did that cover those ten guns ordered by Holt on June 10th? A. Yes. sir.

Q. Will you state how those two invoices, the invoice of June 10th and June 13th were paid?

A. They were paid by check.

Q. Who gave you that check? A. Fred Holt.

Q. Do you remember the amount of the check?

A. I do not. Something like $400.00, as well as I remember.

Q. The amount of the check would have been those two invoices discounted at two per cent?

A. Yes, sir, $406.00 less the discount.

Q. Do you remember on what account that check was drawn? A. I do not.

Q. Do you remember whether it was signed by Fred W. Holt? A. I do not.

Q. What did you do with that check?

A. Took it diagonally across the street to the Oklahoma State Bank or the McAlester Trust Company, possibly, and I am not sure which, but I think I got a cashier's check for

it, and sent it to the Atkinson-Williams Hardware
2513 Company at Fort Smith.

Q. On June 17th, the day that Holt handed you that check, did Holt order some more guns?

A. Let's see, on the 17th? Yes, sir, about that time he ordered a few more, I believe it was another case.

Q. You mean by case, ten guns? A. Yes, sir.

Q. Will you show him that invoice, Mr. Law. Referring to the order sheet dated June 22, 1914, introduced by the last witness and read to the jury, I will ask you if that is the order sheet sent in by you covering that order ordered by Mr. Holt. A. It is.

Q. On the 17th of June? A. Yes, sir.

Q. And the ammunition appearing in that invoice was also ordered by Mr. Holt on that day? A. Yes, sir.

Q. Referring to 1000 45-70 Government cartridges, invoiced on that order, can you state whether or not they were sent to Oscar Layton? A. They were.

Q. Do you remember the circumstances that Mr. Holt told you why they should be sent to Oscar Layton?

A. He explained to me that in some way he had purchased some old Government rifles.

Q. Springfield?

A. Yes, sir, and asked if we could furnish the ammunition, but I told him we didn't have them in stock, but I could send them from the factory with this order shipment.

Q. Did he tell you where he had bought these old rifles, these Springfields? A. He did.

Q. Where?

A. John Hayden Sporting Goods Company.

Q. McAlester? A. Yes, sir.

Q. Were they shipped direct to Oscar Layton?

A. No, sir, the whole order was shipped to Oscar
2514 Layton.

Q. Can you tell when that invoice of June 22nd was paid for, by Mr. Holt, if it was paid?

A. It was paid within the next ten, days, I don't know the exact time.

Q. State the circumstances under which it was paid.

A. The circumstances were the same as the check prior to this order, he gave me a check.

Q. Who gave it to you?

A. Fred Holt, and I took it across to this bank, the same bank I had the check cashed at before, and had this check cashed, and I think I got a cashier's check and sent it to the Atkinson-Williams Hardware Company in Fort Smith, Arkansas.

Q. And how much was the amount of that invoice, discounted at two per cent?

A. It would have been about three hundred and fifty and some odd dollars.

Mr. Hull: I ask that this check be marked Plaintiffs Exhibit 55.

(The check referred to was marked by the stenographer Plaintiffs Exhibits 55.)

A. I don't know just the exact amount, but it should be about $355.00.

Mr. Hull: And I will ask that this check be marked Plaintiffs Exhibit 56, and I offer then both in evidence.

Q. I show you Plaintiffs Exhibit 55, and I ask you if you have ever seen that check before? A. I have.

Q. Is that your endorsement on the back? A. It is.

Q. Was that the check which Fred Holt gave you on or about the 1st of July, 1914? A. It is.

Mr. Hull: I will read this to the jury.

2515 "United Mine Workers Of America, District 21,

F. W. Holt, Secretary-Treasurer.

No. 729

McAlester, Oklahoma, June 30, 1914.

Pay to the order of Cash, $355.68

Three hundred fifty-five and 68/100 Dollars

(Signed) UNITED MINE WORKERS
OF AMERICA, District 21,
By F. W. Holt, Secretary-Treasurer.

To Oklahoma State Bank,

McAlester, Oklahoma. Countersigned by P. R. Stewart, President; endorsed in the handwriting of H. P. Morgan."

I will also read to the jury the bottom portion of the check stub produced by the defendants under the order of the Court referring to the paper marked Plaintiffs Exhibit 56, showing a check drawn No. 729, dated June 30, 1914,

"Merchandise and supplies strikes, $355.68."

Q. Mr. Morgan, referring to the check received by you about June 18, 1914, will you state whether or not, accord-

ing to the best of your recollection, that was a check similar to this one just introduced in evidence?

A. To the best of my recollection it is.

Q. And were you handling the transaction in the same way? A. The same manner.

Q. That is crossed the street and drew a draft to send to your firm? A. Yes, sir.

Q. Now, on June 10th, when you received this first order from Mr. Holt, what did you do in regard to telling Mr. Hill about it? A. The first one?

Q. Yes, sir, for these first ten automatic loading rifles.

A. I found him at the Busby hotel, and told him I had
2516 an order that I would appreciate it very much if he would write to the factory, that I would like for him to wire it and have them express to John Mastell at Hartford, Arkansas in plain boxes.

Q. Did you tell him who had bought them? A. I did.

Q. Did he wire that order in? A. He did.

Q. Did you see him write that telegram? A. I did.

Q. And did that telegram ask that they be shipped in plain unmarked boxes? A. Yes, sir.

Q. Did you deliver the order of June 17th similarly to Mr. Hill? A. I did.

Q. Who was Mr. Hill?

A. He was a factory representative of the Remington Arms and Ammunition Company. U. M. C. Company.

Q. You remember the time of the battle of July 17th, 1914?

A. Yes, sir.

Q. Do you remember meeting Mr. Holt on the street of McAlester about a week before that time? A. Yes, sir.

Q. What did Mr. Holt say to you?

A. Well, in our conversation, I asked him, I said, "Fred, what is the matter, ain't you feeling good," or something to that effect, and he says, "No, I had a bunch of ammunition and guns sent back here and scattered all over the sidewalk, and naturally I don't feel very good over it." He says, "You remember that bunch of stuff I had you ship to Hartford,—" I believe it is the order reading ship to Oscar Layton, and he says "That stuff was all sent back from Hartford to me, and I was out of town, and in my absence there was no one in the office but the girls"—as well as I remember it— "and they took them to the office and left them out on the sidewalk and
the boxes were all busted open, and the ammunition
2517 scattered on the sidewalk." And he said that they laid there something like a half a day, and when he arrived in town he found they were scattered all over the

sidewalk, and he had to get a dray or something to remove them. He was a little [purturbed] over that.

Mr. Covington: No questions.

(Witness excused.)

2518 BASCOM ALLEN, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name? A. Bascom Allen.

Q. Where do you live, Mr. Allen?

A. I live here at Ft. Smith, Arkansas.

Q. You are running a garage here? A. Yes.

Q. In July, 1914, what was your business?

A. Well, I drove a car part of the time at the hotel and tended to the office at night.

Q. You are a nephew of Joseph A. McConnell, proprietor of the Grandview Hotel at Hartford? A. Yes.

Q. Were you working for him at that time? A. Yes, sir.

Q. Do you remember the day of the battle of July 17th at Prairie Creek? A. Yes.

Q. The night before that battle, what was the condition, if you noticed, of the streets of Hartford?

A. Everybody was out on the streets very near.

Q. Did you see any guns? A. Well, a few.

Q. Did you hear any talk on the streets about what was going to occur?

A. I heard they were fixing to go out to Prairie Creek and run the fellows off that was out there.

Q. Did you see Jim McNamara that night?

A. I seen him late that evening.

Q. Did he have a gun? A. I believe he did.

Q. Did you see him leave Hartford? A. Yes, sir.

Q. State the circumstances?

2519 A. I seen him go up the street toward Prairie Creek.

Q. Was he with anyone?

A. He was by hisself, I believe, when he was going up the street. There were so many moving up that way you could hardly tell who they were with.

Q. And did you see a crowd of about 100 people going out that way? A. Or more than that, I guess.

Q. State whether or not they had guns?

A. There was a few of them had guns. They didn't all have guns that I seen.

Q. What did Jim McNamara seem to be doing on the 16th of July, the day before the battle?

A. He seemed to be awful busy. I didn't know just what he was doing. He was running around on the street a good while.

Q. What did you see him do?

A. He was talking to first one and then another around there.

Q. Did you see him the next morning, the day of the battle? A. I believe I did.

Q. Where was he?

A. He came down the street going toward his home, I believe.

Q. About what time was that?

A. I think it was about seven o'clock.

Q. You went out to Prairie Creek, or at or near Prairie Creek No. 4 about noon, or in the afternoon that day?

A. I passed by there, yes, sir.

Q. What did you see out there?

A. Well, there was quite a few people out there then.

Q. How many would you say was out there?

A. They was all around, I expect there was 500 around close there, or more.

Q. That was as you went out from Hartford toward Prairie Creek?

A. Yes, sir, they were all along the road there.

Q. Who were those men you saw out there?

2520 A. Well, I could not give any of their names. Most of the people around there, I knew their faces and knew they [beloned] there but don't know their names.

Q. Were these men that you had seen around Hartford?

A. Yes.

Q. Did you know what their occupations were?

A. I knew they were miners.

Q. Were there any non-union miners in Hartford?

A. No, sir.

Mr. Hull: That is all.

Cross-Examination

By Mr. Covington:

Q. Did you see any women or children out there?

A. I don't believe I did; not unless I seen them going toward Hartford.

Q. Did you see any of them coming back?

A. No, I came back by Mansfield, I didn't come by the mines.

Q. Did you see any business men out there?

A. I suppose there was.
Q. Did you see any foreigners out there?
A. I don't believe there was any foreigners out there.
Q. They were scattered all along the highway from Hartford out to Prairie Creek?
A. Yes, they was all along the road and around the mines.
Q. What mines? A. No. 4 and No. 3.
Q. What time were you out there?
A. That was some time that day, I could not give you the exact time on it.
Q. Was it in the forenoon or in the afternoon?
A. It was along about noon or just after noon, I could
2521 not swear exactly what time it was.
Q. Was the tipple on fire at that time?
A. No, sir, the tipple wasn't on fire at that time.
Q. How long did you remain out there?
A. I just passed by, I didn't stop.
Q. Were you coming this way or going the other way?
A. I was coming to Midland.
Q. Did you go back that way?
A. No, sir. I went to Huntington and Mansfield and back from Mansfield to Hartford.
Q. You say there was considerable excitement in the [twn] of Hartford the day before the battle? A. Yes, sir.
Q. And the night before?
A. The day before and the night before, both.

Mr. Covington: That is all.

Witness excused.

2522 S. T. Brown, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:
Q. Give your full name? A. S. T. Brown.
Q. Where do you live?
A. I am living at the present time about 35 miles from Coal.
Q. Coal? A. Yes, Coal or Cove.
Q. Is that in this state? A. No, sir, in Oklahoma.
Q. What is your occupation at the present time?
A. At the present time I am farming.
Q. You lived at Prairie Creek in 1914?
A. Yes, sir, I did.
Q. Early on the morning of July 17th state what occurred, to your knowledge?

A. The only thing I heard, the first I heard was a lot of shooting.

Q. About what time was that?

A. I taken it to be between 4:00 and 4:30.

Q. Where were you living at that time, how far from No. 4?

A. I was living a little better than a quarter of a mile, right down close to a little mine called the O. Looper mine or pit.

Q. Who was running that?

A. My brother-in-law was fixing to run it then.

Q. Who is he? A. Mack Weston.

Q. Where does he live now? A. At Drumlet.

Q. Is that near Arlington? A. Yes.

Q. In the morning did some man come to you and give you some advice, during the morning of the battle?

2523 A. I will say it was ten o'clock, probably a little later than, and some men came around the edge of the hill, I don't know how many, but something like 20—

Q. (interrupting). Did they have guns?

A. A few of them had guns, part of them didn't. And they just made the remark to me, they said, "Brown, get them women folks and horses and get up the hollow, we are going to close in on them."

Q. Did you hear an explosion that morning?

A. I believe not.

Q. Did you see any houses burning?

A. Nothing only No. 4 about twelve o'clock. I saw the tipple when it fell in, I and my brother-in-law and the boys.

Q. You say that was about twelve o'clock?

A. Yes, 12:00 or 12:30 or something like that.

Q. Had you just previous to that seen four men leave the mine?

A. Just before we walked around to see the tipple fall in Pat Molloy and three other men came up from camp any asked for a drink of water and I said, "Help yourself, boys, there is plenty of it", and they took a drink of water, and my wife, no, my sister, it was, asked them if they would have something to eat, and they said, "No, we will get up the line", and I think my sister gave them some biscuits and they took them in their hands and walked on,—I am not quite sure about that, but I think that is it.

My brother-in-law asked how many boys were left up there and Pat Molloy made the remark, "We are the last four".

Q. How long after that was it you saw No. 4 in smoke?

A. Well, I will say it was something like an hour. We just finished up our dinner and got up and walked around there

and about the time we got around there we just got
2524 around far enough to see it begin to fall in.

Mr. Hull: That is all.

Mr. Covington: No questions.

Witness excused.

2525 E. LEE HARMON, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. What is your name? A. E. L. Harmon.

Q. Where do you live, Mr. Harmon?

A. At Enid, Oklahoma.

Q. Have you been going to school there? A. Yes, sir.

Q. Were you at school there in 1914?

A. Yes, sir, I was in the fall of 1914.

Q. In the spring of 1914 were you living in Mena, Arkansas? A. Yes.

Q. How long did you live there?

A. Just six weeks. I went down there really on a visit. I was working in Kansas.

Q. Did you come up to Prairie Creek about the first or the middle of June, as a United States Deputy Marshal?

A. Yes, I came at the same time Mr. Schell came.

Q. How many came with you?

A. 15 or 20 came from Mena.

Q. Was Joe Parrish and Ed Parrish in that crowd?

A. Joe was, but Ed came later. He just came up there to work.

Q. He came later to work? A. Yes.

Q. State the trouble that occurred on the train on June 15th. First, did you get your commission in Ft. Smith before you went to the mines?

A. No, I went down to work for the coal company.

Q. You were not commissioned as a United States Deputy marshal then? A. No, sir.

Q. Were you at a later time.

2526 A. I was on June 1st, and we were there and had our commissions nine days.

Q. Then on June 15th were you going back to work for the company? A. Yes.

Q. State what occurred on that train?

A. We got on the train here and everything was peaceful until we reached Midland where several union men got on.

Q. Can you give the names of any of them?

A. I can give you the names of three of them, Clint Burris, John Manick and Robinson.

Q. Do you know Robinson's first name?

A. Sandy, is all I know of his name. And Sandy and Clint Burris had ball bats and they were telling what they were going to do. They said something about they assumed they were going to gang up on Sandy, that we were, and he said, "I guess they won't", and he put the ball bat over Boraski—over his head and said "You ain't going to get off at the crossing," and they would not let any of us get off. I was sitting by Clarence Shaleen and Sandy said to me, "Do you know who that is?" And I said, "No." And he said that he was a scab that worked on the floor and that if I had any respect for myself I would not sit by him. And I went back to the ladies coach and sat down and when I got to the crossing I went out the back way with my suit case and was not molested.

Q. By going back into the ladies' compartment you got out of trouble?

A. Yes, but I saw the trouble from the outside. Schell tried to get in and get the men out and they tried to block the way and one fellow said, "You better let him get in", and he came in and got all of the men off but one.

Q. Was Shell deputy marshal at that time? A. Yes.

A. Was there any trouble in the women's compart-
2527 ment of the train? A. No.

Q. Coming to July 17th, the day of the battle, can you state with whom and when you left the mines?

A. I left the mines between 1:00 and 1:30 with Pat Molloy and Ed and Joe Parrish.

Q. State what you had been doing that morning?

A. That morning,—well, I was doing the electrical work. They called me about midnight and said that the lights were out, and to see what I could do with them, and I got up and found the line had been cut and there was no current in there at all.

Q. You were the electrician of the company at that time, were you? A. Yes.

Q. Go on.

A. And we sat up a while and nothing happened, and so I went back to bed. And about four o'clock a volley of shots came in, and we got up and some of the boys answered back with their rifles; and things were peaceful then until about seven o'clock, I guess. I had breakfast and the shots began coming in. I don't remember the foreman's name, but he sent Schell out to find out where the high tension line was cut. It had been cut once before and I found the place and fixed it.

And when we were out we heard the plant whistle blow, and Mr. Moore came out in the company's buggy, and some other gentlemen.

Q. Who were there, Bud Eustis?

A. I don't know who it was. And he said we had better come in, that they were closing in on us. And we cut from the Midland Valley into No. 4. And they were firing in on No. 3, then, and the boys were coming across the prairie, as fast as they could run to No. 4. They were firing all day there. We were out in front in cars and along about noon we didn't
2528 hear any firing from the tipple where the rest of the bunch were, and we thought maybe they were just saving their ammunition. And about 12:30 we went over there and did not find anyone there. Pat Molloy went over there and said they were all gone, and then I went over and they were all gone. And we stayed there a while and didn't know where to go, and we finally went back and went out through a patch of woods and went around to the corner of the hill where this man was working a coal mine and we asked him for a drink of water and he wanted us to have dinner and we didn't think we had better take time to eat dinner, and the lady gave us some bread and we went on to Mansfield.

Q. How long after you left the mine did you see No. 4 tipple in flames?

A. As we were going out through the woods the men were running and shooting and coming in then.

Q. Did you hear them say anything?

I. I heard several voices and one of them said, "Set the son-of-a-bitch afire", and I could heard the voices echo, "Burn her, burn her"; and by the time we were going out of the trees we saw the tipple afire clear to the botom. We could see the flames.

Q. Where did you go after you left the mine?

A. We went to Mansfield.

Q. Did you walk to Mansfield?

A. All but about the last mile and a half, when we met a fellow in a Ford coming along and he took us into Mansfield.

Q. What did you say to him?

Mr. Warrum: To which the defendants object, the defendants separately object to any conversation between this witness and that man.

The Court: The objection is sustained.

To which ruling of the court the plaintiffs, and each of
2529 them, then and there duly excepted and still except.

Mr. Hull: This man told of his part in this battle.

The Court: When was this??

Mr. Hull: When they were making their escape at one or two o'clock on July 17th.

The Court: I did not understand. I thought it referred to some other time. I will overrule the objection.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

A. It was the same day as the battle. He said he would haul anybody but a damned scab. He didn't know who we were. He thought we had been over there to shoot up No. 4. He said he hauled four loads over there and guessed he had done his part. He took [—] on to town. We didn't want to go in town in the car,—

Q. (interrupting). Did you say anything to lead him to believe you were on the other side?

A. He asked us where we had been and I said, "We have been over to No. 4", and he said, "I guess they done a pretty good job over there" and we said "Yes." We didn't tell him what side we were on, and he assumed we had been over there to help destroy the mine.

Q. After you got to Mansfield, what happened?

A. We went to the depot, and the depot agent also assumed the same thing, that we had been over there to help. I guess everybody from there had been over or were over there. And he wanted us to express our rifles and came outside and he said, "There are some damned United States marshals over here and you will get in trouble". And so he expressed our rifles to Ft. Smith in our name. He didn't want to express them for us, he said, "If you express them up here, some of them
fellows, the coal company fellows, will get hold of them.
2530 You better ship them to McAlester". But we did not want to send them there and we induced him to send them here, and he gave the receipt to Joe Parrish and he said we would be all right, that we had got rid of the guns, and they would not fine us.

And Pat Molloy started up town and some 12 or 15 fellows came around the corner and jumped on us and knocked me down and stamped around over me. Pat Molloy ran and I don't know what became of him; and some other fellow came up and stopped them. They were all on me, and I went and got the doctor to dress my wounds, and I hired a car to come

to Ft. Smith, and he agreed to bring me here for eight dollars, and I paid him and we barely got started when he said, "We will never get through Huntington", and he got scared and would not take me, and he took me back to the depot and I stayed there until the evening came in and then I went to Ft. Smith. He gave me back my eight dollars.

Q. Were you there the Sunday night before the big battle?
A. Yes, sir.
Q. Did you go over in town that night and shoot the place up? A. No, sir.
Q. Did you know of any other guards or employes at the mine doing that? A. No, sir.

Mr. Hull: You may cross-examine.

Cross-Examination

By Mr. Covington:
Q. When did you go to Prairie Creek as a United States marshal? A. About June 1st.
Q. Where did you come from? A. Mena, Arkansas.
Q. From Mena, Arkansas? A. Yes, sir.
Q. Did anyone else come up with you?
A. 15 or such a number, yes.
2531 Q. How many? A. About 15.
Q. Were they out of school, too, with you boys?
A. School?
Q. Were they school boys like yourself?
A. No, sir, they were Mena boys.
Q. Who was in charge of this Marshal's force at Prairie Creek at that time? A. Mr. Holt and Mr. Johnson.
Q. Mr. Holt and Mr. Johnson? A. Yes, sir.
Q. How long did you work as a United States marshal?
A. Nine days.
Q. Then you entered the employ of the company?
A. Yes, on June 15th.
Q. How many of the others who went there as United States marshals entered the employ of the company when you did? A. One, Ed Parrish.
Q. Did Joe Parrish remain there?
A. No, he was not a marshal. It was Joe Parrish that went back. Ed Parrish came the day before the battle, as I remember.
Q. Where were you on Sunday night before the battle occurred on the 17th,—Friday, the 17th?
A. I was there in the camp, I never was out of the camp.
Q. What were your duties about the mine?
A. I was electrician.

Q. What time do you say you left the tipple on the 17th?
A. Between 1:00 and 1:30.
Q. Between 1:00 and 1:30?
A. Yes, sir, as I remember it.
Q. How long was it after that that you saw the fire?
A. It was over half an hour at least.
Q. Did you stop out near the mine?
A. Yes, sir, we stopped just east of the mine in the
2532 woods along the side of the road.
Q. Could you see the tipple?
A. Yes, we saw the top of it.
Q. Could you see the ground around the tipple? A. No.
Q. How far had you gone from there before you saw the fire?
A. We could see the smoke before we left the woods and when we got around on the east side of the hill.
Q. Thirty minutes after you left the tipple you discovered the smoke? A. It was longer than that.
Q. Well, about how long?
A. Oh, it must have been an hour before we saw any smoke. They didn't come in right after we left.
Q. They did not come in right after you left?
A. Not immediately.
Q. You could just see the top of the tipple, then how could you see the men gathering around the mine?
A. There was an opening and we were close to the road and we could see them crossing the road.
Q. How far away from the mine?
A. They were about 300 feet from the fence.
Q. And about 400 feet from the mine?
A. I guess so.
Q. And you just saw the top of the tipple?
A. We could look in that direction, look straight west and we could see the bare ground.

Mr. Covington: That is all.

Redirect Examination

By Mr. Hull:
Q. Was the tipple on fire when you left it? A. No, sir.
Q. You did not set it on fire, did you?
A. No, sir.
2533 Q. And Pat Malloy did not set it on fire?
A. No, sir.
Q. Did Ed Parrish set it on fire? A. No, sir.
Q. Did Joe Parrish set it on fire? A. No, sir.
Q. How old was Ed Parrish?
A. I don't remember, he was about 22.

Q. Was he going to school at Mena at the time he came up there?
A. He had went to high school. He was not then.
Q. How old was Joe Parrish?
A. He was along there, but I don't know just how old he was, he was a year or so from that.
Q. He was also in school then? A. Yes.
Q. How old was Pat Molloy? A. I don't know.
Q. Do you know where Pat is now? A. No, sir.

Mr. Hull: That is all.

Witness excused.

Mr. Hull: If the court please, with the permission of the court I would like to recall Mr. Brown a minute.

The Court: Very well.

2534 S. T. Brown, recalled as a witness in behalf of the plaintiffs, testified further as follows:

Redirect Examination

By Mr. Hull:
Q. Mr. Brown, in the afternoon of the day of the battle did you assist in taking some loaded coal cars out from No. 4? A. Yes, sir.
Q. About what time was that?
A. That was,—well, I will say about three o'clock, I believe it was, to the best of my recollection.
Q. How many loaded coal cars were there there?
A. There was four loaded coal cars we pulled back.
Q. Where were they?
A. They were sitting between the mine and the scale house. There was seven loaded cars all told. Three were on fire and the railroad crew ran in there and we ventured up there to see what the destruction was, and Mr. Pattie made the remark, "I wonder if there is anyone around here that can handle those cars?" And I said, "Yes, we have plenty of help, and we will handle them." And Mr. Pattie said, "I will give you five dollars a car to pull them back from there," and we ran for some horses we had down there and grabbed a snatch block and a rope and we attached the snatch block to a car, and we pulled the car six feet, and then we bumped the others against them, and we saved three of the cars for Mr. Pattie.
Q. Where were the three that burned?
A. One burned up on the scale house.

Q. Did the scale house burn with it? A. Yes.
Q. While you were there?
A. It was pretty near gone when we got there, and if
2535 I am not mistaken, one car burned up just opposite that on the side track, and the other was at the end of it, to the best of my recollection.
Q. That Mack Weston's horses you used? A. Yes, sir.

Mr. Hull: You may cross examine.

Mr. Covington: No cross examination.

Witness excused.

2536 WILLIAM D. THAREL, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:
Q. State your full name.
A. William D. Tharel, known as Buck Tharel.
Q. You had a store in 1914, in Midland, did you, Mr. Tharel? A. Yes, sir.
Q. Do you remember the time of the day of the riot, the so-called riot of April 6th? A. Yes, sir.
Q. Soon after that, placing the date as nearly as you can, did you see some trouble between some of the employes of the company and some others right in front of your store at the Midland station? A. Yes, sir.
Q. About when was that?
A. Well, I could not say what day it was.
Q. It was sometime after that riot?
A. Yes, sir, some time after the first riot.
Q. Did you see any men,—whom did you see of the company there?
A. Well, there was, I disremember who they were. Bill Bohannon was in the bunch and two or three others.
Q. Did you see anyone throw rocks at Bill Bohannon and the other employes? A. Yes, sir.
Q. Who was it?
A. Foster Bean and a man by the name of Moro Cola, or something of that kind.
Q. While this trouble between the employes and Foster Bean and Moro Cola was going on, did you see any officers around there? A. I seen two of the Halsey boys.
Q. What are their names?
2537 A. Maje and Marion.
Q. What position did they hold?

A. Marion was city marshal and Maje was constable or a deputy.

Q. Where were they while the rock throwing was going on?

A. They were standing in front of my store when the boys picked up the rocks, when the boys began gathering up the rocks, the two officers walked around the side of my store out of the sight of the boys gathering up the rocks.

Q. Did you see them again in a few minutes? A. Yes.

Q. What happened in the meantime?

A. I heard one of the boys holler, "They have got guns", and the two officers came around past my place and took the guns off of the boys on the wagon.

Q. Did you see one of the boys on the wagon take his gun off of the wagon?

A. When I got to the front door and looked down where these boys was, one of the boys was taking his gun out.

Q. Do you remember the day of the big battle of July 17th? A. Yes, sir.

Q. A few days prior to that state what occurred in your store one night with reference to a paper being brought in by someone?

A. Well, I don't believe it was at night. I think it was in the day time.

Q. Well, whenever it was?

A. There was a bunch of men brought in a sheet of paper about this long (indicating) that was headed up in a way requesting the merchants and miners and citizens of the community to refuse to sell or have anything to do with the Bache-Denman employes.

Q. Had you, previous to that time, been selling to the Bache-Denman company? A. Yes, sir.

2538 Q. And to their employes? A. Yes, sir.

Q. And who was in this crowd that brought this paper in?

A. I believe John Murray, Priott, Joe Overman, Sam Ward and G. V. Peters were some of them in the gang. There must have been 50 or 100 people came in the house. Those I mention were in the lead of the gang, and the others came in while they were in there or came in with them.

Q. Who was the spokesman for the gang?

A. I believe John Murray was.

Q. What did he say when he gave you the paper?

A. He said, "Here is a paper, you sign it."

Q. Were there any other names on the paper when it was brought to you? A. Yes, sir.

Q. What names were there?

A. The first names on the paper seemed to be the merchants of the town.

Q. How many names were on the paper?

A. Well, there must have been 20 or 30 or something like that; quite a bunch of them.

Q. Did you sign it? A. Yes.

Q. Why did you sign that paper?

A. Why, I just felt like they had come in there to kick me out of the house if I didn't sign it.

Q. You kept on after that selling to the Bache-Denman Company, didn't you? A. Yes, sir.

Q. Did you have your store burned up at Midland during that period?

A. Yes, some few days after the riot; I disremember how long,—not very long.

Q. Do you remember now where you were on the day of the battle? A. Yes, sir.

Q. Were you on the streets of Midland?

2539 A. In the morning I was.

Q. When did you first hear about the battle?

A. Well, it must have been nine o'clock.

Q. Did you see Marion Halsey on the street that morning? A. Yes.

Q. What did he say to you?

A. Nothing in particular to me.

Q. Did you hear him say anything to anybody?

A. Well, I heard him hollering across the street to one and another.

Q. What did he say, if you heard him say anything?

A. He said they were having trouble at Prairie Creek and advised the boys, "To get ready and let's go."

Q. Did you see Ed Jones that morning? A. Yes, sir.

Q. Did he have a gun? A. Yes, sir.

Mr. Hull: You may cross-examine.

Cross-Examination

By Mr. Covington:

Q. When did your store burn? A. What?

Q. How long after the trouble at Prairie Creek did your store burn?

A. Well, it was some few days, I don't remember just how long.

Q. Can you give us an idea of about how long?

A. No, I couldn't; I couldn't say just how long.

Q. Did it burn in the day time or in the night time?

A. It burned in the night time.

Q. What time at night?

A. It seemed to be in the after part of the night, near daylight.

Q. Do you know how that fire originated? A. No, sir.

Q. It was a stone building, wasn't it? A. Yes, sir.

Q. What kind of window shutters did you have on it?

2540 A. I didn't have any on it at all.

Mr. Covington: That is all.

Witness Excused.

2541 Bud Porter, called as a witness in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your name? A. Bud Porter.

Q. Your initials are J. T.? A. Yes, sir.

Q. Do you remember hearing Pete Stewart make a speech in front of McGee's drug store on or about May 25th, 1914? A. Yes.

Q. Who were there present?

A. George Howard I believe was one and Bascom Menett, Brother York, I believe was his name, a preacher, and I don't remember what others.

Q. State to the best of your recollection what Pete Stewart said at that time?

A. He said that the Bache-Denman men were going up and down the public highway and that any man that wanted a gun could get one next week, that there would be another Colorado trouble out there and that rather than see that place run that he would go out there and die himself. He said that he was carrying a gun,—no, that he was taking the responsibility on himself with regard to the guns and that he would advise everyone else to carry one.

Q. What is your business, Mr. Porter?

A. I am a grocery man.

Q. Where? A. At Drumright.

Q. Oklahoma? A. Yes.

Mr. Hull: You may cross-examine.

Cross-Examination

By Mr. Covington:

Q. When was it you heard Peter Stewart make that statement?

2542 A. At Midland?

Q. Yes, at Midland.

A. It was in front of McGee's drug store one day.
Q. Can you fix the time? A. No, sir.
Q. With regard to the month,—can you fix the month?
A. I believe it was May.
Q. You think it was in May? A. Yes.
Q. How much of a crowd was in front of the drug store at that time? A. There were several,—I will say ten.
Q. Do you remember what anyone else said on that occasion? A. I don't know as I do.
Q. Did anyone else say anything,—whether you remember it or not?
A. Beside the statements Mr. Stewart made?
Q. Yes, besides what Mr. Stewart said?
A. There might have been, I don't remember.
Q. Was it a conversation or was he making a speech?
A. Well, he was standing out in the street.
Q. I will ask you if he did not say that the guards and non-union men at Camp 4 were insulting the women, shooting over the fields down there and arresting men in the public highway,—that they were insulting girls going to school, and that kind of conduct would bring on another Colorado, and rather than see that continue that he and others would take up arms? A. No.
Q. Were there anything said about the conduct of the guards at Prairie Creek? A. Not that I remember.
Q. Either by Mr. Stewart or by anyone else in that conversation? A. Not that I remember.
Q. You never heard anything with reference to their conduct relative to the insulting of women or girls, or the
2543 arresting of men in the highway, or making the fields of the farmers down there target grounds?
A. No, sir.
Q. Did you know Peter Stewart?
A. Yes, when I saw him.
Q. Were you on the sidewalk or inside of the store when this occurred? A. I was on the sidewalk.
Q. Were you a member of the crowd you speak of?
A. Yes, sir.

Mr. Covington: That is all.

Redirect Examination

By Mr. Hull:
Q. You testified about this in the contempt proceedings, didn't you? A. Yes, sir.

Mr. Hull: That is all.

Recross Examination

By Mr. Warrum:

Q. I did not quite catch for whom you were working at the time of this alleged conversation?

A. I was not working for anyone at that time.

Q. Were you employed by the Bache-Denman people at that time?

A. I was working for Ransom Gulley at the time of the riot and he was running the store for Bache-Denman.

Q. He was running the store for Bache-Denman?

A. Yes.

Q. Where was the store located?

A. Out at the mine.

Witness excused.